9-21-87
Vol. 52 No. 182
Pages 35395-35522

Federal Register

Monday
September 21, 1987

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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How To Cite This Publication: Use the volume number and the page number. Example: 52 FR 12345.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 579]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 579 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 280,438 cartons during the period September 20 through September 26, 1987. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: Regulation 579 (§ 910.879) is effective for the period September 20 through September 26, 1987.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090-6456, telephone (202) 447-5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1521-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601 through 674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the marketing policy for 1987-88. The committee met publicly on September 16, 1987, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended by an unanimous vote a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the market is good.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Section 910.879 is added to read as follows:

§ 910.879 Lemon Regulation 579.

The quantity of lemons grown in California and Arizona which may be handled during the period September 20 through September 26, 1987, is established at 280,438 cartons.

Dated: September 17, 1987.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87-21822 Filed 9-18-87; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1137

Milk in Eastern Colorado Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends, for the months of September 1987 through February 1988, the limit on the period of automatic pool plant status for a supply plant which met pool shipping standards during a previous September through February period under the Eastern Colorado order. Suspension of the provisions was requested by a cooperative association representing producers supplying the market. The action is necessary to assure that the milk of producers who regularly have supplied the fluid milk needs of the market will continue to be priced and pooled under the order without requiring unnecessary and unecomomic movements of milk.

EFFECTIVE DATE: September 21, 1987.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formualtion Branch, Room 2968,

South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-7183.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of Proposed Suspension: Issued August 24, 1987; published August 27, 1987 (52 FR 32308).

The Regulatory Flexibility Act (5 U.S.C. 601 through 612) requires the agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This rule has been reviewed under Executive Order 12291 and Department Regulation 1512-1 and has been determined to be a "non-major" rule under the criteria contained therein.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Eastern Colorado marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on August 27, 1987 (52 FR 32308) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. No comments opposing the proposed action were received.

After consideration of all relevant material, including the proposal in the notice and other available information, it is hereby found and determined that for the months of September 1987 through February 1988 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In the second sentence of § 1137.7(b), the words "plant which has qualified as a", and "of March through August".

Statement of Consideration

This action suspends for the months of September 1987 through February 1988 the limit on the period of automatic pool plant status for a supply plant which met pool shipping standards during a previous September through February period.

The suspension was requested by Mid-America Dairymen, Inc., (Mid-Am), a cooperative association of producers supplying the market. The cooperative association indicated that in spite of the Dairy Termination Program, after two years of increasing production, producer receipts on the Eastern Colorado market during the first six months of 1987 declined only 0.4 percent from the level of production during the same period of 1986, while producer milk used in Class I fell 2.0 percent. Mid-Am expects that, with suspension of the requested provisions, ample supplies of locally produced milk will still be available to the Eastern Colorado marketing area due to the relative decline in Class I use, ideal weather conditions for milk production and ample feed supplies. In the absence of the suspension Mid-Am would be required to move 50 percent of the receipts at its supply plants located in Kansas and Nebraska to the Denver area. Without the suspension, the cooperative expects to incur substantial unnecessary costs for the movement of its milk solely for the purpose of pooling the milk of its members currently associated with the Eastern Colorado market. No comments in opposition to the proposed action were received. Mid-Am filed comments that provided additional information in support of the suspension.

Milk production is little changed from year-earlier levels and consequently about the same proportion of the available milk supplies will have to be shipped to manufacturing plants for surplus uses as in 1986. Favorable weather conditions and ample feed supplies provide strong indications that the current production trends will not abate substantially in spite of the Dairy Termination Program. Significant increases in Class I use are not expected. In view of these circumstances, it is concluded that the provisions limiting the period of automatic pool plant status for a supply plant that met pool shipping standards during a previous September through February period should be suspended for the months of September 1987 through February 1988, as they were for the same 1986-87 period, to ensure the orderly marketing of milk supplies. The suspension will eliminate the need to make uneconomic movements of some milk through pool plants merely for the purpose of qualifying it for producer milk status under the order.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that without extensive unnecessary and expensive hauling and handling substantial quantities of milk from producers who regularly supply the market otherwise would be excluded from the marketwide pool, thereby causing a disruption in the orderly marketing of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded an opportunity to file written data, views or arguments concerning this suspension. No views in opposition to this action were received.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1137

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions § 1137.7(b) of the Eastern Colorado order are hereby suspended for the months of September 1987 through February 1988, as follows:

PART 1137—MILK IN THE EASTERN COLORADO MARKETING AREA

1. The authority citation for 7 CFR Part 1137 continues to read as follows:

Authority: Sec. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

§ 1137.7 [Amended]

2. In 7 CFR Part 1137, in the second sentence of § 1137.7(b), the words "plant which has qualified as a", and "of March through August".

Effetive Date: September 21, 1987.

Signed at Washington, DC, on September 15, 1987.

Karen K. Darling,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 87-21706 Filed 9-18-87; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 303 and 308

Applications, Requests, Submittals, Delegations of Authority, and Notices of Acquisition of Control; Rules of Practice and Procedures

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final agency rule.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") is amending its regulations to redelegate

authority to act on those applications and administrative enforcement matters formerly exercised by the Board of Review to officials in the FDIC's Division of Bank Supervision ("division"). The amendments also delegate additional authority to act on certain applications and administrative enforcement matters to the Director of the Division of Bank Supervision ("Director") and, where confirmed in writing by the Director, to an associate director of the Division of Bank Supervision ("associate director"), or to the appropriate regional director or deputy regional director. The changes are expected to make better use of the FDIC's resources and make the processing of applications and administrative enforcement matters more efficient. The amendments therefore benefit both the FDIC and the banking system by allowing the FDIC to act expeditiously on applications and to attempt to correct unsafe and unsound banking practices in a prompt fashion.

EFFECTIVE DATE: September 21, 1987.

FOR FURTHER INFORMATION CONTACT: Alan J. Kaplan, Counsel, Legal Division, (202) 898-3734 or Michael A. Hovan, Jr., Associate Director, Administration & Corporate Applications Branch, Division of Bank Supervision, (202) 898-6851 (applications) and Eugene A. Miller, Counsel, Legal Division, (202) 898-3705 or George J. Masa, Assistant Director, Supervision and Enforcement Activities, Division of Bank Supervision, (202) 898-6915, or William R. Taylor, Chief, Special Situation Section, Division of Bank Supervision, (202) 898-6773 (enforcement matters), Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Currently, Part 303 of the FDIC's regulations sets forth delegations of authority by the Board of Directors ("Board") to act on certain applications and enforcement matters to the FDIC's Board of Review, the Director of the Division of Bank Supervision and the Deputy General Counsel for Regional and Corporate Affairs, and, where confirmed in writing, to the appropriate regional director or regional counsel, or both. The number of both applications and administrative enforcement proceedings under the FDIC's purview has increased dramatically in the past ten years. This increase has been borne particularly by the FDIC's Washington staff since virtually all actions currently come to Washington at some stage in the proceeding, whether to the Board of Directors, the Board of Review, or the Director. The Board has undertaken an effort to make better use of the FDIC's resources by processing applications and enforcement actions more efficiently and promptly in order to benefit both the FDIC and the banking system. The FDIC is, therefore, making, among other changes,[1] amendments to the delegations of authority discussed below. The amendments reflect the Board's conclusion that the division and the regions [2] can be given additional authority to handle the processing of applications and enforcement actions.

Part 303

Section 303.6 Application procedures.

In addition to the technical amendments to § 303.6 (b) and (e) discussed below, § 303.6(e) is amended to remove the uncertainty over which officials within the division make the threshold determination whether a petition for reconsideration of a denied application, petition, or other request warrants reconsideration. The FDIC's regulation requires that petitions for reconsideration of denied applications, petitions, or requests (1) specify reasons why the FDIC should reconsider its action and (2) set forth relevant, substantive information that for good cause was not previously set forth in the application, petition, or request to be reconsidered. Under existing § 303.6(e), the Board has reserved to itself the right to reconsider applications, petitions, or requests denied by the Board and has directed that any application, petition, or request denied under delegated authority by the FDIC's Board of Review, the Director, or a regional director will be reconsidered by the Board of Review.

Section 303.6(e) requires clarification because, in addition to the restructuring of the Board of Review, the rule is unclear regarding who within the FDIC makes the threshold determination about a petition's compliance with the requirements that it specify the reasons for reconsideration and contain new relevant and substantive information. The amendment to § 303.6(e) removes any doubt present in the existing regulation by providing that the Director, and, where confirmed in writing by the Director, the associate director, or the appropriate regional director or deputy regional director, or the General Counsel or designee in the case of a petition which does not relate to a particular bank or institution, shall make the threshold determination of the petition's compliance with the provisions of § 303.6(e)(1). The amended § 303.6(e) merely states the FDIC's current practice that incomplete or improper petitions will not be considered on the merits.

If the regional director, deputy regional director, or General Counsel (or designee) determine that a petition for reconsideration does not comply with the provisions of § 303.6(e)(1), an applicant may appeal such decision to the Director, or where confirmed in writing by the Director, to the associate director, or, for petitions filed with the Executive Secretary, to the Chairman of the FDIC or designee. An applicant may not submit additional information or evidence with the appeal and the decisions by the Director or associate director or the Chairman or designee regarding this threshold determination are final and not appealable to the Board.

Amended § 303.6(e) states that a petition for reconsideration which complies with the threshold requirements shall be considered by the Board if the Board denied the original application or request, or by the Director, or where confirmed in writing by the Director, an associate director, if the Director, associate director, regional director or deputy regional director denied the original application or request. The amendments also make clear the FDIC's current practice that decisions by the Director or associate director on the merits of petitions for reconsideration are final and not appealable to the Board. The amendments do not, however, limit in any manner the rights an aggrieved party or person may have under the Administrative Procedure Act to request the Board to exercise its discretionary authority to review an action taken under delegated authority. This right to request review by the Board, however, is distinct from the right to present a meritorious petition for reconsideration in that the right to petition for reconsideration amounts to an "appeal by right" whereas requests for Board review need only be considered by the Board at its discretion.

Lastly, § 303.6 is amended by deleting existing paragraph (*l*) and redesignating paragraphs (m) and (n) as paragraphs (*l*) and (m). The deleted provision dealt with tentative denials of applications

[1] In addition to reorganizing Part 303 to improve its clarity and overall utility to the reader, one layer of decision makers has been removed by the restructuring of the Board of Review. This action necessitates revisions to Part 303 in order to redelegate the authority formerly exercised by the Board of Review.

[2] As used herein, "division" refers to the Director and the associate directors and "regions" refers to the regional directors and the deputy regional directors (or assistant regional directors in those FDIC regions which do not have deputy regional directors).

and provides in substantial part as follows:

> Generally, in the case of an application subject to the provisions of this section, where the Board of Directors, based upon the information available at that time, plans to deny the application and no hearing has been held thereon pursuant to paragraph (i) of this section, the Director of the Division of Bank Supervision or his designee will send the applicant a written statement by registered or certified mail which shall specify the reasons for such tentative denial.

The FDIC has always viewed the provision for a tentative denial to be an optional rather than a mandatory procedure. The Board is choosing, nonetheless, to eliminate the above-quoted provision for two reasons. First, the introductory term "generally" is confusing and provides no guidance as to when the tentative denial procedure will be used. Second, as a matter of practice, the function of a tentative denial—to provide an applicant the opportunity to correct deficiencies in its application that would otherwise result in a denial or, if it cannot remedy the deficiencies, to withdraw the application—has been fulfilled in recent years by the greatly increased amount of interaction between an applicant and the appropriate FDIC regional officer over the quality of the application. In this way, the regional office has been able to indicate to an applicant when its application is insufficient to the degree that it is likely to be denied. As a result, the majority of problems or deficiencies that would warrant the use of a formal tentative denial notification by the Board has been eliminated during the processing of the application at the regional office level. The continual interaction between regional office personnel and an applicant leads to correction of surmountable problems or the opportunity for withdrawal of the application. Moreover, the Board has the authority to issue a formal tentative denial without the express language to do so in the regulation. Therefore, the present practice of working closely with the applicant and the rare usage of the formal notification of a tentative denial indicate that the elimination of the tentative denial procedures from Part 303 will not prejudice an applicant's position or rights.

Section 303.7 Delegation of authority to the Director of the Division of Bank Supervision and to the associate directors and to the regional directors and deputy regional directors to act on certain applications, requests, and notices of acquisition of control.

The current version of § 303.7 is organized according to those applications, requests and notices of acquisition of control which are not subject, and those which are subject, to conditions precedent for the exercise of delegated authority by specifically named delegates. The amendments, in addition to modifying the delegations, reorganize § 303.7 according to types of applications, requests and notices of acquisition of control. The Board feels that this structure better presents the delegations in a clear and concise manner, thereby improving the utility of Part 303 to the reader.

(a) *Applications for branches and relocations and for trust and other banking powers.* Under the existing delegations of authority, the authority of the Director, and, where confirmed in writing by the Director, the Director's delegate(s) or the appropriate regional director, to act on applications to establish branches or relocate offices or for trust or other banking powers is limited by the applicant's Uniform Financial Institutions Rating System ("composite CAMEL"), Uniform Interagency Compliance System ("Compliance"), and Community Reinvestment Act ("CRA") ratings. If all of the applicant's ratings are 1 or 2, the application may be approved but not denied. If any of the three composite ratings are 3 but none are 4 or 5, the application may be approved or denied. If, however, any of the ratings are 4 or 5, the division may only deny the application. The Board of Review has been delegated the authority to approve or deny any such application without restriction.

Experience indicates that there are extenuating circumstances which warrant approval of applications for branches or relocations submitted by banks rated a composite 4 or 5. Such circumstances include situations where it may be financially beneficial for the applicant to relocate an office to more cost-effective quarters or where the only available alternative to relocation is closing an office when a lease expires or is terminated. Another extenuating circumstance is the courier service offered by certain banks, some of which have been operated without the prior consent of the FDIC. These services may be beneficial to the institution; therefore, it may be more reasonable to approve, than deny, the branch-courier service even though the applicant has a rating of 4 or 5. Similarly, experience has shown that applications for trusts or other banking powers are, for the most part, routine and can be handled more efficiently and promptly at the regional level.

In view of the foregoing, the FDIC is expanding the authority of the Director, associate directors, regional directors and deputy regional directors [3] to act on applications for branches and relocations and for trust and other banking powers by eliminating the tiered criteria relating to the composite CAMEL, compliance, and CRA ratings. The amendments retain the existing restrictions on the exercise of delegated authority to act on branch or relocation applications by the delegates unless (1) the six factors set forth in section 6 of the Federal Deposit Insurance Act ("Act") (12 U.S.C. 1816) have been considered and favorably resolved; (2) the applicant meets the minimum capital requirements set forth in 12 CFR Part 325 and the FDIC's "Statement of Policy on Capital" or agrees in writing to be in compliance before or at the consummation of the transaction which is the subject of the application; (3) any financial arrangements in connection with the proposed branch or relocation involving the applicant's officers, directors, and major shareholders are fair and reasonable in comparison with similar arrangements that could have been made with independent third parties; and (4) the requirements of the National Historic Preservation Act, the National Environmental Policy Act, and the CRA have been considered and favorably resolved. Further, the regions may not act on branch and relocation applications unless comments protesting an application on CRA grounds filed by an organization other than a competing institution are favorably resolved.

The "standard conditions" provision for branch and relocation applications has also been retained, but has been moved from § 303.10(a) to § 303.7(a). Delegates may impose conditions on branch and relocation applicants, but the authority of a regional director or deputy regional director to act on such applications where conditions other than those listed in § 303.7(a)(1)(iv) have been imposed is limited to situations where the applicant agrees in writing to comply with such conditions. The Director or associate directors may exercise delegated authority to act on branch or relocation applications where any condition has been imposed even if the applicant has not agreed in writing to comply with them.

As for applications for trust and other banking powers, the amendments retain the restrictions on the exercise of

[3] In the amendments, the Board has delegated its authority to the Director. Under specific circumstances, the Director may subdelegate this authority to an associate director, or to a regional director or deputy regional director. Any subdelegations by the Director must be confirmed in writing.

delegated authority by the Director, associate directors, regional directors or deputy regional directors unless (1) the six factors set forth in section 6 of the Act (12 U.S.C. 1816) have been considered and favorably resolved; (2) the proposed management of the trust or other banking business is determined capable of satisfactorily handling the anticipated business; and (3) for trust applications only, the applicant's board of directors has formally adopted Form 114—"Statement of Principles of Trust Department Management."

(b) *Merger transactions.* Under existing delegations, the Director (or his delegate(s)) or the regional directors can approve but not deny any merger application where the resulting bank warrants a composite CAMEL, a compliance, and a CRA rating of 1 or 2. If the resulting bank warrants a rating of 3 on any three of the standards, but none would be 4 or 5, then a delegate may approve or deny an application. If any of the resulting ratings are a 4 or 5, a delegate can only deny a merger application. The exercise of delegated authority is further limited to applications where the resulting bank would not have more than 15% of the deposits in the relevant market.

As with branch and trust applications, experience indicates that the current limitations on the exercise of delegated authority to act on merger applications unnecessarily delay final action on the applications up to 4 to 6 weeks. Experience also indicates that the FDIC approves the vast majority of merger applications. Consequently, there is little reason why the division and regions should not have broadened authority to approve such applications.

The Board has determined, however, that the authority of the division and the regions to approve merger applications should not be without restriction and has, consequently, placed market share and competitive factors limitations on the exercise of this delegated authority. The division or the region may approve a merger application where the resulting bank's market share [4] is not more than 15% or where the resulting bank's market share is not more than 25% and the Attorney General has not issued an adverse competitive factors opinion. The division may approve a merger application where the resulting bank's market share is not more than 35% and the Attorney General has not issued an adverse competitive factors opinion.

Another change from the existing delegations concerns the competitive factors opinion. Currently, an opinion provided by the FDIC's legal Division is used when the Attorney General has not provided an opinion within 30 days of a request by the FDIC (although no delegation is effective if either the Legal Division or the Attorney General issues an adverse opinion). With the broadened delegations, the Board has concluded that a delegate may not approve a merger application without a formal opinion by the Attorney General if the market share of the resultant bank is in excess of 15%.

Also, where a merger transaction involves both an FDIC-insured institution and an institution whose deposits are insured by the Federal Savings and Loan Insurance Corporation ("FSLIC"), the Board has delegated to the division the authority to approve such a transaction if the transaction will not result in (and is not part of a series of transactions that would result in) a substantial volume of deposits insured by the FSLIC becoming deposits insured by the FDIC or vice versa. In applying the "substantial volume of deposits" test, it is intended that the volume of deposits being transferred may be measured either in absolute terms or in relation to the total deposits of the institution from which the deposits are being acquired or assumed, and that, if the volume of deposits being transferred is substantial under either measure, the application will be referred to the Board of Directors for action.

Finally, the amendments make explicit the current FDIC practice that the division or the region do not have the authority to approve merger applications falling within the scope of the "probable failure" or "emergency" provisions of 12 U.S.C. 1828(c)(6) or where the resulting bank does not meet the capital requirements in accordance with Part 325 of the FDIC's rules and regulations (12 CFR Part 325).

(c) *Notices of acquisition of control.* Under the existing delegations, the division and the regions can issue written notices of the FDIC's intent not to disapprove acquisitions of control of insured state nonmember banks, but they can not disapprove such acquisitions of control. The amendments make additional delegations to the Director, and where confirmed in writing by the Director, to an associate director, so that the division has the authority to disapprove acquisitions of control. The Board has concluded that this additional delegation to the division will expedite and streamline the processing of disapprovals of acquisition of control of insured state nonmember banks.

(d) *Deposit insurance applications.* The amendments make few changes to the existing delegations of authority to act on applications for deposit insurance. The division and the regions will have the authority to approve applications for deposit insurance by newly organized banks, by operating noninsured or nonfederally insured institutions and by state member banks withdrawing from membership in the Federal Reserve System, subject to the applicants satisfying specific requisites. The "standard conditions" provision formally found in § 303.10(a) has been moved to § 303.7(d)(4) and limits the exercise of delegated authority by the division or the regions to act on deposit insurance applications where conditions other than those listed in § 303.7(d)(4) have been imposed to situations where the applicants agree in writing to comply with such conditions.

The amendments restrict the delegation of authority to approve deposit insurance applications by operating noninsured or nonfederally insured institutions with total assets of $250,000,000 or more to the division. The Board has limited the delegation to approve applications for deposit insurance submitted by this particular class of applicants to the division because it has determined that decisions on deposit insurance applications from large institutions are better handled at the division level.

(e) *Applications pursuant to section 19 of the Act.* The amendments make additional delegations to the division, giving the Director, and where confirmed in writing, an associate director, the authority to deny applications made by insured banks pursuant to section 19 of the Act (12 U.S.C. 1829) for the employment of any director, officer, or employee who has been convicted or is hereafter convicted of any criminal offense involving dishonesty or a breach of trust. This change reflects the Board's conclusion that the processing of section 19 applications will be streamlined and made more efficient, thereby better serving the banking industry. The procedures for processing petitions for reconsideration of denied section 19 applications are governed by the procedures set forth in § 303.6(e).

(f) *Other applications.* The amendments move the existing

[4] Market share is measured by the individual, partnership and corporate deposits held by commercial banks and/or thrift institutions, as may be appropriate, in the relevant market(s). What constitutes an "appropriate" combination of commercial and/or thrift deposits is determined by an analysis of the business conducted by commercial banks and thrift institutions in the relevant market(s).

delegations found in § 303.7(a)(1–5)[5] and § 303.7(b) to § 303.7(f)(1), with only minor changes. The division and the regions now have the authority to act upon applications seeking to establish temporary banking facilities for up to ninety days rather than the current restriction on delegated authority to act on applications seeking to establish such facilities for one month. The division and the regions also now have the authority both to approve and to deny applications for "phantom" bank mergers (except where any of the merging institutions has deposits insured by the FSLIC and the transaction would result in a substantial volume of deposits insured by the FSLIC becoming deposits insured by the FDIC or vice versa), applications for deposit insurance filed in connection with "phantom" bank mergers and requests to establish a management official interlock pursuant to 12 CFR 348.4(b)(3). The Board feels that there is no reason to restrict the exercise of delegated authority on these applications to the authority only to approve. The amendments restrict the delegation of authority to approve or deny applications for acquisition of stock in foreign banks to the division based on the Board's conclusion that these applications are not routine and present some unique policy issues better handled at the division level.

Section 303.8 Other delegations of authority.

Except for newly designated § 303.8(a), which was formerly found at § 303.7(c)(7), existing § 303.11 is redesignated § 303.8. Current § 303.11(i) has been deleted since the statute which imposed time deposit withdrawal penalties has sunset. The Board has delegated additional authority to the division and the regions to act on the routine disclosure matters pursuant to 12 CFR 335.703 (confidential treatment to be accorded to information required to be filed in a disclosure report) and to 12 CFR 335.204(e) (disclosure to departments and agencies of the United States of otherwise confidential information submitted in copies of preliminary proxy solicitation material).

Section 303.9 Delegation of authority to act on certain enforcement matters.

Under the existing delegations, the Board of Review has the authority to act on certain enforcement matters, such as issuing notices of charges and of hearing pursuant to section 8(b) of the Act (12 U.S.C. 1818(b)), issuing certain stipulated section 8(b), and other stipulated orders, issuing notices of assessments of civil money penalties and withdrawing and terminating such assessments, issuing capital directives, and accepting written agreements. The existing delegations also impose conditions and limitations on the authority of the division and the regions to accept stipulated orders and to terminate outstanding orders.

Since the Board last revised the delegations, the division and regional staffs have gained sufficient experience operating under delegated authority such that the majority of the conditions and limitations on the exercise of delegated authority are no longer necessary. The Board concludes that additional delegations to the division and the regions will speed up the processing of enforcement matters. The additional delegations also mean that the banks in need of corrective action can deal directly with the decision makers at the regional level without having to wait for the enforcement process to go through Washington, DC staff. The more efficient processing of enforcement matters and the easier access to decision makers will not only make better use of the FDIC's resources, but will help the FDIC to be more responsive to the needs of the banking industry.

Lastly, the amendments condition the exercise of delegated authority on enforcement matters by the division and the regions upon the concurrent certification by officials in the FDIC's Legal Division that the actions taken under delegated authority are not inconsistent with the Act.

(a) *Actions pursuant to section 8(a) of the Act.* In order to streamline the processing of section 8(a) (12 U.S.C. 1818(a)) actions so that the FDIC acts in a more prompt and responsive manner, the Board has delegated additional authority to initiate section 8(a) actions to the division and the regions. The amendments give the regions the authority to issue orders of correction where a respondent's book capital is less than 3% of its total assets (unless the bank has issued any mandatory convertible debt or any form of secondary capital). Under the amendments, the division has the authority to issue orders of correction when a respondent's adjusted primary capital is less than 3% of its adjusted Part 325 total assets.

(b) *Actions pursuant to section 8(b) of the Act.* The authority of the division and the regions to act on section 8(b) (12 U.S.C. 1818(b)) matters is expanded to include (1) the authority to issue notices of charges and (2) the authority to issue stipulated orders at any time prior to the filing by an administrative law judge of proposed findings of fact, conclusions of law and a recommended decision with the FDIC's Executive Secretary.

(c) *Actions pursuant to section 8(c) of the Act.* The enforcement power granted by section 8(c) of the Act (12 U.S.C. 1818(c)) enables the FDIC to issue temporary cease-and-desist orders, which are effective upon service, where violations of law or unsafe and unsound practices threaten the respondent bank's solvency or the interests of its depositors. Since the purpose behind section 8(c) calls for prompt, corrective actions, the Board has delegated to the division the authority to issue temporary cease-and-desist orders.

(d) *Actions pursuant to section 8(e) of the Act.* The division has also been delegated the authority to issue notices of charges pursuant to sections 8(e) (1), (2) and (3) of the Act (12 U.S.C. 1818(e) (1), (2) and (3)) and to agree to stipulated orders of removal and prohibition at any time prior to the filing by an administrative law judge of proposed findings of fact, conclusions of law and a recommended decision with the FDIC's Executive Secretary.

(e) *Actions pursuant to section 8(g) of the Act.* Consistent with the Board's policy to delegate the authority to agree to stipulated orders, the amendments delegate authority to the division to agree to stipulated orders suspending and prohibiting an indicted director, officer or person from participating in the conduct of the affairs of an insured bank.

(f) *Civil money penalties.* With the restructuring of the Board of Review, the authority to issue notices of assessments of civil money penalties pursuant to sections 7(j)(15), 8(i), and 18(j) of the Act (12 U.S.C. 1817(j)(15), 1818(i) and 1828(j)), section 106(b) of the Bank Holding Company Act (12 U.S.C. 1972) and section 910(d) of the International Lending Supervision Act of 1923 (12 U.S.C. 3909) has been delegated to the division. The General Counsel or designee retains the authority to assess civil money penalties under section 7(a)(1) of the Act (12 U.S.C. 1817(a)(1)) for late filings of Reports of Condition, Reports of Income and any other reports required by the Board under the authority of that section.

(h) *Capital directives.* The amendments, due to the restructuring of the Board of Review, redelegate the authority to issue notices of intent to

[5] Current § 303.7(a)(6) has been deleted since the amendments do not differentiate between applications to establish initial remote service facilities and those to establish such facilities other than an initial remote service facility.

issue capital directives and to issue directives to the division and the regions.

(i) *Truth in Lending Act.* The amendments move the authority to act on requests for relief from the requirements for reimbursement under section 608(a)(2) of the Truth in Lending Simplification and Reform Act (15 U.S.C. 1607(e)(2)) found in existing § 303.8(b) to newly designated § 303.9(i), and, due to the restructuring of the Board of Review, redelegate the authority to act on such requests to the division and the regions. The regions have the authority to act on routine requests, *i.e.*, to deny requests where the estimated amount of reimbursement is $10,000 or less. The division has been delegated the authority to grant requests for relief, to deny requests where the estimated amount of reimbursement is greater than $10,000 and to act on meritorious petitions for reconsideration of previous denials.

(j) *Acceptance of written agreements.* Under the existing delegations, the Board of Review has the authority to accept or enter into written agreements with insured banks or their officials pertaining to any matter which may be addressed by the FDIC pursuant to sections 8 (a) and (b) of the Act (12 U.S.C. 1818 (a) and (b)). The amendments redelegate this authority to the division.

(k) *Modifications and terminations.* Under existing Part 303, the authority of the division or the regions to modify or terminate outstanding orders or pending administrative enforcement proceedings was limited and subject to a number of conditions. The amendments reflect the Board's determination (1) that the person initiating a proceeding or issuing an order should have the authority to modify or terminate the proceeding or order and (2) that once the Board has issued an order, modifications or terminations are better and more efficiently handled at the regional or divisional level.

The amendments permit the Director to subdelegate to the regions the authority to terminate outstanding orders and pending administrative enforcement actions upon either the closing or the merger of the respondent bank. The amendments also delegate to the division and regions the authority to terminate outstanding section 8(b) orders issued by the Board in cases of material compliance or for good cause shown. Authority is delegated to the division to modify or terminate section 8(a) orders of correction and section 8(g) orders of suspension and prohibition issued by the Board and to terminate actions pending pursuant to notices of intent to terminate insured status issued by the Board where the respondent bank is either in material compliance with the applicable order of correction or for good cause shown.

Section 303.10 Applications and enforcement matters where authority is not delegated.

Paragraph (a) of existing § 303.10 was revised and moved to § 303.7(a)(1)(iv) and § 303.7(d)(4). New paragraph (a)(1) of § 303.10 was formerly found at § 303.11(a). Paragraph (a)(2) of newly designated § 303.10, formerly found at § 303.10(b), makes clear that the Board may act on any application or enforcement matter even if the authority to act on such has been delegated.

Paragraph (b) of revised § 303.10 is new and lists, without limiting the Board's authority, the applications and enforcement matters where the Board has not delegated its authority to act. The Board has retained authority to deny merger applications and to approve such applications where (1) the resulting bank would have more than a 35% market share, (2) the Attorney General has issued an adverse competitive factors opinion, or (3) a merger transaction between an FDIC-insured institution and an FSLIC-insured institution will result in a substantial volume of deposits insured by the FSLIC becoming deposits insured by the FDIC or vice versa. The Board has also retained authority to deny deposit insurance applications and to approve such applications where the applicant is a U.S. branch of a foreign bank or has deposits insured by FSLIC.

Regarding enforcement matters, the Board has retained the authority (1) to issue administrative orders when respondents do not consent to the issuance of the orders, (2) to issue (i) orders of correction when a respondent bank's book capital is at or above 3% of total assets and adjusted primary capital is at or above 3% of adjusted Part 325 total assets, (ii) notices of intent to terminate insured status, and (iii) orders terminating insured status pursuant to section 8(a) of the Act (12 U.S.C. 1818(a)), and (3) to deny requests for modifications or terminations of orders issued pursuant to section 8(g) of the Act (12 U.S.C. 1818(g)).

Section 303.11 Confirmation, limitations, rescissions, and special cases.

Existing § 303.9 is redesignated as § 303.11 and is revised to remove all references to the Board of Review. Newly designated § 303.11 makes explicit that action under delegated authority is not mandated. As a result, the Director may rescind, in writing, any subdelegation of authority to an associate director, or to a regional director or deputy regional director. Additionally, any subdelegate may recommend that he not exercise the authority to act on an application or enforcement matter. In such cases, the Director may take any necessary action. The Director may similarly recommend that he not exercise the authority to act on an application or enforcement matter, wherein the Board shall act. Amended § 303.11 retains the provision of existing Part 303 that the conditions to which the exercise of delegated authority are subject are procedural in nature only and shall not be construed as standards or criteria which will be used in determining the merits of a specific application or enforcement matter. Paragraph (c) of § 303.11 also retains the provision of existing Part 303 that any aggrieved party or person may request the Board to review any action taken under delegated authority.

Technical Amendments

Part 303

The amendments expand the "Definitions" paragraph of Part 303 (§ 303.0(b)) to include terms used in the revised delegations. The revisions to § 303.2 are the result of moving the definition for "remote service facilities" out of § 302.2 and into the "Definitions" paragraph, § 303.0(b)(16). Paragraphs (b) and (e) of § 303.6 have been amended to delete all references to the Board of Review and to add associate directors of the division and deputy regional directors as officials to whom authority to act on certain matters have been delegated by the Board. Section 303.8 (delegations to the Board of Review) has been removed and §§303.9, 303.11, and 303.13 have been redesignated as §§ 303.11, 303.8 and 303.12 for clarification purposes.

Part 308

Part 308 of the FDIC's rules and regulations (12 CFR Part 308) sets forth the FDIC's rules of practice and procedure for administrative enforcement proceedings. The amendments to Part 303 necessitate several minor changes to Part 308 for consistency purposes.

Regulatory Considerations

The above changes to Part 303 and Part 308 are being made in an effort to handle the flow of, and make better use of the FDIC's resources in, processing applications and enforcement actions. The changes do not create any insured bank publication requirements or affect

the bank's or other respondent's right to challenge any action. The changes also do not impair the availability of access to the Board, to the extent it exists currently in Part 303, for review of decisions on any application or enforcement matter.

The amendments to the regulations are procedural in nature, *i.e.*, the conditions establishing the delegations are not standards against which the merits of an application or enforcement action are to be measured to determine substantively whether the FDIC should approve the application or proceed with the enforcement action. The delegations are merely guideposts by which the FDIC's staff can determine who has the authority to proceed on a particular application or action. The changes in the delegation of authority do not alter any of the rights or obligations of any bank or other respondent.

The amendments are being published in final form without opportunity for public comment under authority of 5 U.S.C. 553(b)(A) (Administrative Procedure Act) which exempts from required publication for comment interpretive rules, general statements of policy, and rules of agency practice and procedure. The amendments, which constitute nonsubstantive changes to FDIC's rules of practice and procedure, are being made immediately effective inasmuch as the requirement found in 5 U.S.C. 553(d) that substantive rules be published not less than 30 days prior to their effective date is inapplicable. As these amendments neither alter existing nor create new recordkeeping or reporting requirements, the Paperwork Reduction Act is inapplicable. Finally, the requirements of the Regulatory Flexibility Act are inapplicable as the amendments are not subject to required public comment under the Administrative Procedure Act.

List of Subjects

12 CFR Part 303

Administrative practice and procedure, Authority delegations, Bank deposit insurance, Banks, Banking.

12 CFR Part 308

Administrative practice and procedure, Claims, Courts, Equal access to justice, Lawyers, Penalties.

For the reasons set out above, Parts 303 and 308 of Title 12 of the Code of Federal Regulations are amended as set forth below.

PART 303—APPLICATIONS, REQUESTS, SUBMITTALS, DELEGATIONS OF AUTHORITY, AND NOTICES OF ACQUISITION OF CONTROL

1. The authority citation for Part 303 continues to read as follows:

Authority: Secs. 2(5), 2(6), 2(7)(j), 2(8), 2(9 "Seventh" and "Tenth"), 2(18), 2(19), Pub. L. 797, 64 Stat. 876, 881, 891, 893 as amended by Pub. L. 86–643, 74 Stat. 129; sec. 2, Pub. L. 87–827, 76 Stat. 953; Pub. L. 88–593, 78 Stat. 940; Pub. L. 89–79; 79 Stat. 244; sec. 1, Pub. L. 89–356, 80 Stat. 7; sec. 12(c), Pub. L. 89–485, 80 Stat. 242, sec. 3, Pub. L. 89–597, 80 Stat. 824; Title II, secs. 201, 205, Pub. L. 89–695, 80 Stat. 1055; sec. 2(b), Pub. L. 90–505, 82 Stat. 856; secs. 6(c) (7), (12), (13), Pub. L. 95–369, 92 Stat. 616–620; Title III, secs. 306, 309 and Title VI, sec. 602, Pub. L. 95–630, 92 Stat. 3677, 3683 (12 U.S.C. 1815, 1816, 1817(j), 1818, 1819 "Seventh and "Tenth", 1828, 1829); Title I, sec. 108, Pub. L. 90–321, 82 Stat. 150 as amended by Title IV, sec. 403, Pub. L. 93–495, 88 Stat. 1517 and Title VI, sec. 608, Pub. L. 96–221, 94 Stat. 171 (15 U.S.C. 1607).

2. Section 303.0 is revised to read as follows:

§ 303.0 Scope and definitions.

(a) *Scope.* This part prescribes (1) where applications, requests, and notices of acquisition of control (hereinafter, collectively, "applications") should be filed, (2) the contents of the applications when the application is to be made by letter, and (3) the location where forms and instructions may be obtained when the application is to be made on a form. Part 303 also prescribes procedures to be followed by both the FDIC and applicants during the process of considering an application. Finally, this part sets forth delegations of authority by the FDIC's Board of Directors to the Director of the Division of Bank Supervision, and to the associate directors of the Division of Bank Supervision and to the regional directors and deputy regional directors to act on certain applications and other matters and the conditions, where applicable, that limit such delegations.

(b) *Definitions.* For purposes of this Part 303:

(1) The term "division" shall mean the Division of Bank Supervision.

(2) The term "Director" shall mean the Director of the Division of Bank Supervision, or in the event the title of Director becomes obsolete, any official of comparable authority within the division.

(3) The term "associate director" shall mean any associate director of the Division of Bank Supervision, or in the event the title of associate director become absolete, any official of comparable authority within the division.

(4) The term "regional director" shall mean a regional director (Bank Supervision), or in the event the title of regional director becomes obsolete, any official of comparable authority within the division.

(5) The term "regional counsel" shall mean a regional counsel (Bank Supervision), or in the event the title of regional counsel become obsolete, any official of comparable authority within the Office of the General Counsel. The duties and responsibilities of a regional counsel may be performed by the assistant general counsel or a counsel in the Compliance and Enforcement Section of the Office of the General Counsel in the FDIC's Washington, DC, office.

(6) The term "deputy regional director" shall mean a deputy regional director (Bank Supervision), or in those FDIC regions where there is no deputy regional director, an assistant regional director (Bank Supervision). In the event the title of deputy regional director or assistant regional director becomes obsolete, the term "deputy regional director" shall then mean any official of comparable authority within the same FDIC region of the division.

(7) The terms "appropriate FDIC region," "appropriate regional director," "appropriate deputy regional director" and "appropriate regional counsel" shall refer to the FDIC region, the Regional Director (Bank Supervision), the deputy regional director (Bank Supervision), and the regional counsel (Bank Supervision), respectively, of the FDIC region in which

(i) The applicant bank, the proposed or newly organized nonmember bank, the insured branch of a foreign bank, the resulting or assuming bank, or the bank in which stock is being acquired, as appropriate, is or will be located, or

(ii) A bank,

(A) Which is the subject of an administrative action or

(B) With which an individual who is the subject of an administrative action is associated, is located.

(8) The term "the Act" shall mean the Federal Deposit Insurance Act (12 U.S.C. 1811 *et seq.*).

(9) The term "order of correction" shall mean findings of unsafe or unsound practices or condition and an order of correction issued under section 8(a) of the Act (12 U.S.C. 1818(a)).

(10) The term "section 8(a) order" shall mean an order terminating insured status under section 8(a) of the Act (12 U.S.C. 1818(a)).

(11) The term "notice of charges" shall mean a notice of charges and of hearing setting forth the allegations of unsafe or unsound practices and/or violations and fixing the time and place of the hearing issued under section 8(b) of the Act (12 U.S.C. 1818(b)).

(12) The terms "section 8(b) order" and "cease-and-desist order"shall mean a final order to cease and desist issued under section 8(b) of the Act (12 U.S.C. 1818(b)).

(13) The terms "section 8(c) order" and "temporary cease-and-desist order" shall mean a temporary order to cease and desist issued under section 8(c) of the Act (12 U.S.C. 1818(c)).

(14) The term "section 8(e) order" shall mean a final order of removal or prohibition issued under section 8(e) of the Act (12 U.S.C. 1818(e)).

(15) The term "section 8(e)(4) order" and "temporary section 8(e) order" shall mean a temporary order of suspension or prohibition issued under section 8(e)(4) of the Act (12 U.S.C. 1818(e)(4)).

(16) The term "section 8(g) order" shall mean an order of suspension and prohibition issued under section 8(g) of the Act (12 U.S.C. 1818(g)).

(17) The term "remote service facility" shall mean an automated teller machine, cash dispensing machine, point-of-sale terminal, or other remote electronic facility where deposits are received, checks paid, or money lent.

(18) The term "notice of assessment of civil money penalties" shall mean a notice of assessment of civil penalties issued pursuant to section 7(j)(15), 8(i) or 18(j) of the Act (12 U.S.C 1817(j)(15), 1818(i), or 1828(j)), section 106(b) of the Bank Holding Company Act (12 U.S.C. 1972), or section 910(d) of the International Lending Supervision Act of 1983 (12 U.S.C. 3909).

(19) The term "final order to pay" shall mean an order to forfeit and pay civil money penalties which has become final and which has been issued pursuant to section 7(j)(15), 8(i), or 18(j) of the Act (12 U.S.C. 1817(j)(15), 1818(i), or 1828(j)), section 106(b) of the Bank Holding Company Act (12 U.S.C. 1972), or section 910(d) of the International Lending Supervision Act of 1983 (12 U.S.C. 3909).

(20) The term "book capital" shall mean total equity capital (comprised of perpetual preferred stock, common stock, surplus, undivided profits and capital reserves) plus allowance for loan and lease losses, as those items are defined in the instructions of the Federal Financial Institutions Examination Council ("FFIEC") for the preparation of Consolidated Reports of Condition and Income for insured banks.

(21) The term "adjusted primary capital" shall mean adjusted primary capital as calculated and reflected in the FDIC's Reports of Examination.

(22) The term "total assets" shall mean total assets plus allowance for loan and lease losses as those terms are defined in the instructions of the FFIEC for the preparation of Consolidated Reports of Condition and Income for insured banks.

(23) The term "adjusted Part 325 total assets" shall mean adjusted Part 325 total assets as calculated and reflected in the FDIC's Reports of Examination.

(24) Any use of the masculine, feminine, or neuter gender shall be read as encompassing all three, if such use would be appropriate.

§ 303.2 [Amended]

3. In § 303.2, paragraph (c)(1) is removed and paragraphs (c)(2)(i) and (c)(2)(ii) are redesignated as paragraphs (c)(1) and (c)(2). The newly designated § 303.2(c)(1) is amended by removing the heading, "Application procedures.", by removing the term "303.8," in the fifth sentence and by substituting the term "303.11" for the term "303.9" in the fifth sentence. The newly designated § 303.2(c)(2) is amended by removing everything which follows first occurrence of the word "paragraph" and by inserting "(1) of this paragraph (c)."

4. Section 303.6 is amended by removing paragraph (l), redesignating paragraphs (m) and (n) as paragraphs (l) and (m) respectively, and revising paragraphs (b) and (e) to read as follows:

§ 303.6 Application procedures.

* * * * *

(b) *Investigations and examinations.* With respect to all applications, requests, or submittals, the Board of Directors, or the Director, the associate director or the appropriate regional director or deputy regional director acting under delegated authority, may require any investigation or examination, or both, to be performed as deemed appropriate. Upon receipt of the report of any investigation or examination and any recommendations based on the report, the Board of Directors, or the Director, the associate director, the regional director, or the deputy regional director acting within the scope of delegated authority, as the case may be, will take any action determined necessary or appropriate under the circumstances.

* * * * *

(e) *Opportunity to petition for reconsideration of a denied application, petition, or other request.* (1) Within 15 days of its receipt of notice that its application, petition, or request has been denied, any applicant may petition the FDIC for reconsideration of such application, petition, or request (except an application, petition or request already previously denied upon reconsideration). The petition must be in writing and should (i) specify reasons why the FDIC should reconsider its action and (ii) set forth relevant, substantive information that for good cause was not previously set forth in the application, petition, or request to be reconsidered. The petition should be filed with the appropriate regional director. If a particular insured bank or insured branch of a foreign bank was not the subject of the application, petition, or request on which reconsideration is sought, the petition should be filed with the Executive Secretary of the FDIC at the FDIC's principal office.

(2)(i) The Director of the Division of Bank Supervision or, where confirmed in writing by the Director, and associate director or the appropriate regional director or deputy regional director, or, in the case of a petition for reconsideration filed with the Executive Secretary, the General Counsel or designee, shall determine whether the petition satisfies paragraphs (e)(1) (i) and (e)(1) (ii) of this section and shall promptly notify the petitioner of such determination.

(ii) If, pursuant to paragraph (e)(2)(i), of this section, a petition for reconsideration is determined not satisfy paragraphs (e)(1)(i) and (e)(1)(ii) of this section, an applicant may appeal such decision to the Director, and where confirmed in writing by the Director, to an associate director, or, in the case of a petition for reconsideration filed with the Executive Secretary, to the Chairman of the FDIC or designee. An applicant may not submit additional information or evidence with the appeal and the determination by the Director or associate director, or the Chairman of the FDIC or designee whether the petition satisfies paragraph (e)(1)(i) and (e)(1)(ii) of this section is final and not appealable to the Board of Directors.

(iii) If a petition for reconsideration is determined to satisfy paragraphs (e)(1)(i) and (e)(1)(ii) of this section, then the previously denied application, petition, or request will be reconsidered (A) by the Board of Directors if originally denied by the Board of Directors, or (B) by the Director, or where confirmed in writing by the Director, by an associate director, if originally denied by the Director, associate director, regional director or

deputy regional director. The decisions by the Director or associate director on petitions for reconsideration are final and not appealable to the Board of Directors.

5. Section 303.7 is revised to read as follows:

§ 303.7 Delegation of authority to the Director of the Division of Bank Supervision and to the associate directors and to the regional directors and deputy regional directors to act on certain applications, requests, and notices of acquisitions of control.

The Board of Directors of the Federal Deposit Insurance Corporation has delegated to officials in the Division of Bank Supervision and other employees of the FDIC the authority on behalf of the Board of Directors to act (subject to the provisions of § 303.11 of this part) on the following applications, requests, and notices of acquisition of control.

(a) *Applications for branches (including remote service facilities and courier services) and relocations, and for trust and other banking powers*—(1) *Branch and relocation applications.* (i) Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to approve applications for consent to establish branch facilities (including remote service facilities and courier services) or relocations where the applicant satisfies the requisites listed in paragraph (a)(1)(iii) of this section and agrees in writing to comply with any condition imposed by the delegate other than those listed in paragraph (a)(1)(iv) of this section.

(ii) Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, (A) To deny applications for consent to establish branch facilities (including remote service facilities and courier services) or relocations and (B) To approve such applications where the applicant satisfies the requisites listed in paragraph (a)(1)(iii) of this section but does not agree in writing to comply with any condition imposed by the delegate.

(iii) The requisites which must be satisfied before the authority delegated by paragraphs (a)(1)(i) and (a)(1)(ii)(B) of this section to approve applications for consent to establish branch facilities or relocations may be exercised are:

(A) The six factors set forth in section 6 of the Act (12 U.S.C. 1816) have been considered and favorably resolved (except that this requisite does not apply to applications to establish courier services);

(B) The applicant meets the capital requirements set forth in 12 CFR Part 325 and the FDIC's "Statement of Policy on Capital" or agrees in writing to increase capital so as to be in compliance with the requirements of 12 CFR Part 325 before or at the consummation of the transaction which is the subject of the application (except that this requisite does not apply to applications to establish courier services, remote service facilities, and relocations of branches or main offices);

(C) Any financial arrangements which have been made in connection with the proposed branch or relocation and which involve the applicant's directors, officers, major shareholders, or their interests, are fair and reasonable in comparison to similar arrangements that could have been made with independent third parties; and

(D) The requirements of the National Historic Preservation Act (16 U.S.C. 470), the National Environmental Policy Act (42 U.S.C. 4321), and the Community Reinvestment Act of 1977 (12 U.S.C. 2901 through 2905) and its applicable implementing regulation (12 CFR Part 345) have been considered and favorably resolved (except that this requisite does not apply to applications to establish foreign branches); *Provided However,* That a regional director or deputy regional director is not authorized to exercise delegated authority to approve applications for branches and relocations where an organization other than a competing institution has filed a protest under the Community Reinvestment Act.

(iv) The conditions which may be imposed by a delegate in approving applications for branches and relocations without affecting the authority granted under paragraph (a)(1)(i) of this section are:

(A) The applicant has obtained all necessary and final approvals from the appropriate state authority; and

(B) Until the conditional commitment of the FDIC becomes effective, the FDIC retains the right to alter, suspend, or withdraw its commitment should any interim development be deemed to warrant such action.

(2) *Applications for consent to exercise trust and other banking powers.* (i) Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to approve applications for the FDIC's consent to exercise trust or other banking powers where the applicant satisfies the requisities listed in paragraph (a)(2)(iii) of this section and agrees in writing to comply with any other conditions required by the delegate.

(ii) Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director,

(A) To deny applications for trust or other banking powers, and

(B) To approve such applications where the applicant satisfies the requisites listed in paragraph (a)(2)(iii) of this section but does not agree in writing to comply with other conditions required by the delegate.

(iii) The requisites which must be satisfied before the authority delegated by paragraphs (a)(2)(i) and (a)(2)(ii)(B) of this section to approve applications for trust or other banking powers may be exercised are:

(A) The six factors set forth in section 6 of the Act (12 U.S.C. 1816) have been considered and favorably resolved;

(B) The proposed management of the trust or other banking business is determined capable of satisfactorily handling the anticipated business; and

(C) In regards to trust applications only, the applicant's board of directors has formally adopted Form 114—"Statement of Principle of Trust Department Management."

(b) *Merger transactions.* (1) Except as provided in paragraph (b)(5) of this section and in § 303.10(b) of this part, authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, or the appropriate regional director or deputy regional director, to approve any application for permission to merge or consolidate with any other bank or, either directly or indirectly, to acquire the assets of, or assume the liability to pay any deposits made in, any other bank or branch of a foreign bank (hereinafter referred to as "merger transaction") where:

(i) The resulting bank, upon consummation of the merger transaction, would not have more than 15% of the individual, partnership and corporate deposits held by commercial banks and/or thrift institutions, as may be appropriate, in the relevant market(s); or

(ii) The resulting bank, upon consummation of the merger transaction, would not have more than 25% of the individual, partnership and corporate deposits held by commercial banks and/or thrift institutions, as may be appropriate, in the relevant market(s) and the Attorney General has determined that the proposed merger transaction would not have a significantly adverse effect on competition.

(2) Except as provided in paragraph (b)(5) of this section, authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, to approve applications for merger transactions where the resulting bank, upon consummation of the merger transaction, would not have more than 35% of the individual, partnership and corporate deposits held by commercial banks and/or thrift institutions, as may be appropriate, in the relevant market(s) and the Attorney General has determined that the proposed merger transaction would not have a significantly adverse effect on competition.

(3) In cases where applicable, the delegate will review any reports on the competitive factors involved in the merger transaction that the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Attorney General may have provided in response to a request for such reports by the FDIC. In the absence of a formal written opinion by the Attorney General, the delegate may also request the FDIC's General Counsel or designee to provide a formal written opinion on the question whether the merger transaction may have a significantly adverse effect on competition but the authority delegated under paragraphs (b)(1)(ii) and (b)(2) of this section may not be exercised in the absence of a formal written opinion by the Attorney General where the resulting bank, upon consummation of the merger transaction, would have more than 15% of the individual, partnership, and corporate deposits held by commercial banks and/or thrift institutions, as may be appropriate, in the relevant market(s).

(4) Subject to the same limitations relating to market share and competition as are set forth in paragraph (b)(2) of this section, authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, to approve any application for a merger transaction between an FDIC-insured institution and an institution insured by the Federal Savings and Loan Insurance Corporation (hereinafter the "FSLIC") when the delegate determines that the transaction will not result in (and is not part of a series of transactions that would result in) a substantial volume of deposits insured by the FSLIC becoming deposits insured by the FDIC or vice versa.

(5) The delegations contained in paragraphs (b)(1), (b)(2), and (b)(4) of this section to approve applications for merger transactions do not extend to such applications (i) falling within the scope of the "probable failure" or "emergency" provisions of 12 U.S.C. 1828(c)(6) or (ii) where the resulting bank, upon consummation of the merger transaction, does not meet the capital requirements set forth in 12 CFR Part 325 and the FDIC's "Statement of Policy on Capital." (If the applicant is a foreign bank, the delegated authority to approve does not extend to instances where, upon consummation of the merger transaction, the foreign bank's insured branch is not in compliance with 12 CFR Part 346.)

(c) *Notices of acquisition of control.* (1) Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to issue a written notice of the FDIC's intent not to disapprove an acquisition of control of an insured State nonmember bank.

(2) The authority delegated by paragraph (c)(1) of this section shall include the power:

(i) To act in situations where information is submitted on acquisitions arising out of estate or intestate succession, bona fide gifts, or foreclosure;

(ii) To extend notice periods;

(iii) To determine the informational adequacy of a notice;

(iv) To determine whether a notice should be filed under section 7(j) of the Act (12 U.S.C. 1817(j)) by a person acquiring less than 25 percent of any class of voting securities of an insured state nonmember bank; and

(v) To waive publication, waive or shorten the public comment period, or act on a proposed acquisition of control prior to the expiration of the public comment period, as provided in 12 CFR 303.4(b)(3).

(3) Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, to disapprove an acquisition of control of an insured state nonmember bank.

(d) *Deposit insurance applications—* (1) *Proposed or newly organized banks.* (i) Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, or subject to the limitations set forth in paragraph (d)(1)(iii) of this section, to the appropriate regional director or deputy regional director, to approve applications for deposit insurance by proposed or newly organized banks where the applicant satisfies the requisites listed in paragraph (d)(1)(ii) of this section and agrees in writing to comply with any condition imposed by the delegate other than those listed in paragraph (d)(4) of this section.

(ii) The requisites which must be satisfied before the authority delegated by paragraph (d)(1)(i) of this section to approve applications for deposit insurance by proposed or newly organized banks may be exercised are:

(A) Each of the six factors set forth in section 6 of the Act (12 U.S.C. 1816) has been considered and favorably resolved; and

(B) The guidelines set forth in the FDIC's policy statement, "Applications for Deposit Insurance," have been satisfied, including, but not limited to the following:

(*1*) Equity capital is not less than $1,000,000;

(*2*) Legal fees and other expenses incurred in connection with the proposal are determined to be reasonable;

(*3*) No unresolved "management interlocks," as prohibited by Part 348 of this chapter (12 CFR Part 348), exist;

(*4*) The projected ratio of equity capital and reserves to assets, including projected profits and losses, is at least 10 percent at the end of the third year of operation;

(*5*) Profitable operations are projected at least for the third year of operations;

(*6*) The proposed aggregate direct and indirect investment in fixed assets is determined to be reasonable relative to the applicant's proposed equity capitalization, projected earnings capacity, and other pertinent bases of consideration;

(*7*) Any financial arrangements made or proposed in connection with the proposed bank involving the applicant's directors, officers, 5 percent shareholders or their interests are determined to be fair and made on substantially the same terms as those prevailing at the time for comparable transactions with noninsiders and do not involve more than normal risk or present other unfavorable features. The applicant also must have fully disclosed, or agreed to disclose fully, any such arrangement to all of its proposed directors and shareholders prior to the opening of the bank;

(*8*) Stock financing arrangements conform to the guidelines established in the FDIC's policy statement on "Applications for Deposit Insurance;" and

(*9*) Fidelity coverage, accrual accounting, and compliance with the National Historic Preservation Act (16 U.S.C. 470), the National Environmental Policy Act (42 U.S.C. 4321), and the Community Reinvestment Act of 1977 (12 U.S.C. 2901 through 2905) and the

applicable implementing regulation (12 CFR Part 345) are adequate and favorably resolved in accordance with the guidelines set forth in FDIC's policy statement on "Applications for Deposit Insurance."

(iii) The authority to approve an application may not be subdelegated to a regional director or deputy regional director where—(A) A protest under the Community Reinvestment Act is filed (other than a protest filed for competitive reasons by a financial institution) or (B) Where,

(*1*) There is direct or indirect financing, by proposed directors and officers and 5 percent or more shareholders, of more than 75 percent of the purchase price of the stock subscribed to by any one shareholder,

(*2*) There is aggregate financing of stock subscriptions in excess of 50 percent of the total capital offered, or

(*3*) Warehoused or trusteed stock exceeds 10 percent of initial capital funds.

(2) *Operating noninsured institutions or nonfederally insured institutions.* (i) Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, or, for applicant institutions with total assets of less than $250,000,000, to the appropriate regional director or deputy regional director, to approve applications for deposit insurance by operating noninsured institutions or nonfederally insured institutions where the applicant satisfies the requisites listed in paragraph (d)(2)(ii) of this section and agrees in writing to comply with any condition imposed by the delegate other than those listed in paragraph (d)(4) of this section.

(ii) The requisites which must be satisfied before the authority delegated by paragraph (d)(2)(i) of this section to approve applications for deposit insurance by operation noninsured institutions or nonfederally insured institutions may be exercised are:

(A) The applicant is determined to be eligibile for federal deposit insurance for the class of institution to which the applicant belongs in the state (as defined in 12 U.S.C. 1813(a)) in which the applicant is located;

(B) The six factors set forth in section 6 of the Act (12 U.S.C. 1816) have been considered and favorably resolved;

(C) The applicant meets the minimum capital requirements as set forth in Part 325 of this chapter (21 CFR Part 325) and the FDIC's "Statement of Policy on Capital" or agrees in writing to increase capital so as to be in compliance with the requirements of 12 CFR Part 325 before or at the time deposit insurance becomes effective;

(D) All "management interlocks" as prohibited by Part 348 of this chapter (12 CFR Part 348) have been resolved; and

(E) The applicant has no fewer than five directors.

(3) *Banks withdrawing from Federal Reserve System.* Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director and deputy regional director, to approve applications for deposit insurance by state nonmember banks that have withdrawn from membership in the Federal Reserve System where the applicant agees in writing to comply with any condition imposed by the delegate other than those listed in paragraph (d)(4) of this section and satisfies the following requisites;

(i) The six factors set forth in section 6 of the Act 12 U.S.C. 1816) have been considered and favorably resolved; and

(ii) The bank has agreed to continue any corrective program imposed by the Board of Governors of the Federal Reserve System or previously agreed to by the bank where the bank is not in material compliance with that corrective program.

(4) *Conditions for exercise of delegated authority.* The conditions which may be imposed by a delegate in approving applications for deposit insurance without affecting the authority granted under paragraphs (d)(1), (d)(2), and (d)(3) of this section are:

(i) The applicant has provided a specific amount and a specific allocation of beginning paid-in capital;

(ii) Any changes in proposed management or proposed ownership to the extent of 5 of more percent of stock, including new acquisitions of or subscriptions to 5 or more percent of stock shall be approved by the FDIC prior to the opening of the bank;

(iii) The applicant adopts an accrual accounting system for maintaining the books of the bank;

(iv) Where applicable, federal deposit insurance will not become effective until the applicant has been established as a state bank (not a member of the Federal Reserve System), has authority to conduct a banking business, and its establishment and operation as a bank have been fully approved by the state banking authority;

(v) Where applicable, a registered or proposed bank holding company has obtained approval of the Board of Governors of the Federal Reserve System to acquire voting stock control of the proposed bank prior to its opening;

(vi) Where applicable, the applicant, has submitted any proposed contracts, leases, or agreements relating to construction or rental of permanent quarters to the regional director for review and comment;

(vii) Where applicable, full disclosure has been made to all proposed directors and stockholders of the facts concerning the interest of any insider (one who is or stands to be a director, an officer, or an incorporator of an applicant or a shareholder who directly or indirectly controls 5 or more percent of any class of the applicant's outstanding voting stock, or the associates and interests of any such person) in any bank transactions being effected or then contemplated, including the identity of the parties to the transaction and the terms and costs involved;

(viii) The person(s) selected to serve as the principal operating officer(s) shall be acceptable to the regional director;

(ix) The applicant has obtained adequate blanket bond coverage; and

(x) Until the conditional commitment of the FDIC becomes effective, the FDIC retains the right to alter, suspend, or withdraw its commitment should any interim development be deemed to warrant such action.

(e) *Applications pursuant to section 19 of the Act.* (1) Authority is delegated to the Director, or where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to approve applications made by insured banks pursuant to section 19 of the Act (12 U.S.C. 1829) for the employment of any director, officer, or employee who has been convicted or is hereafter convicted of any criminal offense involving dishonesty or a breach of trust; *Provided Howevet,* That authority may not be delegated to the regional director or deputy regional director where the applicant bank's primary supervisory authority interposes any objection to such application.

(2) (i) Authority is delegated to the Director, and where confirmed by writing by the Director, to an associate director, to deny applications made by insured banks pursuant to section 19 of the Act.

(ii) The authority delegated under paragraph (e)(2)(i) of this section shall be exercised only upon the concurrent certification by the Deputy General Counsel for Regional and Corporate Affairs or the Assistant General Counsel for Compliance and Enforcement that the action taken is not inconsistent with section 19 of the Act.

(iii) An applicant may still request a hearing following a denial of the application under this paragraph in accordance with the provisions of Part 308 of this chapter (12 CFR Part 308).

(f) *Other applications.* (1) Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to approve and to deny the following applications, requests or petitions:

(i) Applications to establish and operate any new teller's window, drive-in facility, or any like office, as an adjunct to a main office or a branch office (including offices not considered branches under state law);

(ii) Applications to operate temporary banking facilities as a public service for a period not to exceed ninety days during conventions, State and local fairs, college registration periods, and similar occasions, as well as during emergencies;

(iii) Applications to reduce the amount or retire any part of common or preferred capital stock, or retire any part of capital notes or debentures;

(iv) Requests for approval of any deviations from requirements prescribed by prior delegated action (to be acted upon by the delegate who acted previously in the matter);

(v) Except as provided in § 303.10(b) of this part, applications for "phantom" bank mergers [8] and other mergers which are corporate reorganizations, *i.e.,* transactions involving banks controlled by the same holding company or transactions involving banks and their subsidiaries which would have no effect on competition or otherwise have significance under relevant statutory standards as set forth in 12 U.S.C. 1828(c);

(vi) Applications for deposit insurance filed by proposed state nonmember banks which are formed in connection with a "phantom" bank merger; and

(vii) Requests to establish a management official interlock pursuant to 12 CFR 348.4(b)(3) of this chapter.

(2) Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, to approve or to deny applications for the acquisition and holding of stock or other evidences of ownership in a foreign bank or other financial entity that results in less than 25 percent ownership interest in such bank or entity.

6. Section 303.8 is revised to read as follows:

§ 303.8 Other delegations of authority.

(a) *Extensions of time.* Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to approve and to deny requests for extensions of time, not to exceed one year on any one request relating to the same application, within which to perform acts or conditions required by prior FDIC action on bank applications.

(b) *Disclosure law and regulations.* (1) Except as provided in paragraph (b)(2) of this section, authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to act on disclosure matters under and pursuant to sections 12, 13, 14, 17 and 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78) or Parts 335 and 341 of this chapter (12 CFR Parts 335 and 341).

(2) Authority to act on disclosure matters is retained by the Board of Directors when such matters involve:

(i) Exemption from disclosure requirements pursuant to section 12(h) of the Securities Exchange Act of 1934 (15 U.S.C. 781(h));

(ii) Exemption from tender offer requirements pursuant to section 14(d)(8) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(d)(8)); or

(iii) Exemption from registration requirements pursuant to section 17A(c)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1(c)(1)).

(c) *Security devices and procedures and bank service arrangements.* Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to administer the provisions of Part 326 of this chapter (12 CFR Part 326).

(d) *In emergencies.* For the purpose of assuring the performance of, and continuity in the management functions and activities of the FDIC, the Board of Directors has delegated, to the extent deemed necessary, authority with respect to the management of the FDIC's affairs, to certain designated officers, such authority to be exercised only in the event of an emergency involving an enemy attack on the continental United States or other warlike occurrence which renders the Board of Directors unable to perform the management functions and activities normally performed by it.

(e) *Competitive factor reports.* (1) Authority is delegated to the Director, and where confirmed by the Director, to an associate director, or to the regional director or deputy regional director in the appropriate FDIC region in which the applicant bank [9] is located, to furnish required reports to the Board of Governors of the Federal Reserve System or the Comptroller of the Currency on the competitive factors involved in any "phantom" bank merger and other mergers that are corporate reorganizations (*i.e.,* transactions involving banks controlled by the same holding company or transactions involving banks and their subsidiaries which would have no effect on competition or otherwise have significance under relevant statutory standards as set forth in 12 U.S.C. 1828(c)).

(2) Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, to furnish to the Board of Governors of the Federal Reserve System or the Comptroller of the Currency reports on the competitive factors involved in any merger required to be approved by one of those agencies, if the division is of the view that the proposed merger would have no significant effects on competition.

(f) *Deposit agreements for pledge of assets by foreign banks.* (1) Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to enter into deposit agreements with foreign banks and depositories in connection with the pledge of asset requirements pursuant to 12 CFR 346.19.

(2) Authority is delegated to the General Counsel or designee to modify the terms of the model deposit agreement used for such deposit agreements.

(g) *National Historic Preservation Act.* (1) Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to enter into memoranda of agreement pursuant to regulations of the Advisory Council of Historic Preservation which implement the National Historic Preservation Act (16 U.S.C. 470).

(2) The Director may limit the delegation of authority to the associate director, the regional director or deputy

[8] As used in this Part 303, the term "phantom bank merger" applies to any merger or other transaction involving an existing operating bank and a newly chartered bank or corporation which is for the purpose of corporate reorganization and which would have no effect on competition or otherwise have significance under the relevant statutory standards as set forth in 12 U.S.C. 1828(c).

[9] As used in paragraph (d)(1) of this section, the term "applicant bank" means the bank which is applying for merger approval either to the Board of Governors of the Federal Reserve System or to the Comptroller of the Currency.

regional director to applications wherein the applicant has agreed in writing to conditions relating to the National Historic Preservation Act which may be imposed by the FDIC.

7. Section 303.9 is revised to read as follows:

§ 303.9 Delegation of authority to act on certain enforcement matters.

The Board of Directors of the Federal Deposit Insurance Corporation has delegated to officials in the Division of Bank Supervision and other employees of the FDIC the authority on behalf of the Board of Directors to act (subject to the provisions of § 303.11 of this part) on the following enforcement matters.

(a) *Actions pursuant to section 8(a) of the Act (12 U.S.C. 1818(a)).* (1) Authority delegated to the Director, and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to issue orders of correction when the respondent bank's book capital is less than 3% of total assets; *Provided However,* That authority may not be delegated to the regional director or deputy regional director whenever the respondent bank has issued any mandatory convertible debt or any form of secondary capital (such as limited life preferred stock/subordinated notes and debentures).

(2) Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, to issue orders of correction when the respondent bank's adjusted primary capital is less than 3% of adjusted Part 325 total assets.

(3) The authority delegated under paragraphs (a)(1) and (a)(2) of this section shall be exercised only upon the concurrent certification by the Deputy General Counsel for Regional and Corporate Affairs or the Assistant General Counsel for Compliance and Enforcement, or, in cases where a regional director or deputy regional director issues orders of correction, by the appropriate regional counsel, that the allegations contained in the findings of unsafe or unsound practices or conditions, if proven, constitute a basis for the issuance of an order of correction pursuant to section 8(a) of the Act (12 U.S.C. 1818(a)).

(b) *Actions pursuant to section 8(b) of the Act (12 U.S.C. 1818(b)).* (1) Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to issue:

(i) Notices of charges and

(ii) Cease-and-desist orders (with or without a prior notice of charges) where the respondent bank or individual respondent consents to the issuance of the cease-and-desist order prior to the filing by an administrative law judge of proposed findings of fact, conclusions of law and a recommended decision with the Executive Secretary of the FDIC.

(2) The authority delegated under paragraph (b)(1) of this section shall be exercised only upon the concurrent certification by the Deputy General Counsel for Regional and Corporate Affairs or the Assistant General Counsel for Compliance and Enforcement, or, in cases where a regional director or deputy regional director issues the notice of charges or the stipulated cease-and-desist order, by the appropriate regional counsel, that the allegations contained in the notice of charges, if proven, constitute a basis for the issuance of a notice of charges pursuant to section 8(b) of the Act (12 U.S.C. 1818(b)) or that the stipulated cease-and-desist order is authorized under section 8(b) of the Act and is a cease-and-desist order which has become final for purposes of enforcement pursuant to the Act.

(c) *Actions pursuant to section 8(c) of the Act (12 U.S.C. 1818(c)).* (1) Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, to issue temporary cease-and-desist orders.

(2) The authority delegated under paragraph (c)(1) of this section shall be exercised only upon the concurrent certification by the Deputy General Counsel for Regional and Corporate Affairs or the Assistant General Counsel for Compliance and Enforcement that the action is not inconsistent with section 8(c) of the Act (12 U.S.C. 1818(c)) and the temporary cease-and-desist order is enforceable in a United States District Court.

(d) *Actions pursuant to section 8(e) of the Act (12 U.S.C. 1818(e)).* (1) Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, to issue (i) notices of intent to remove an individual from office or to prohibit an individual from further participation in the conduct of the affairs of an insured bank pursuant to sections 8(e) (1), (2), and (3) of the Act (12 U.S.C. 1818(e) (1), (2), and (3)) and (ii) orders of removal, suspension or prohibition from participation in the conduct of the affairs of an insured bank where the individual consents to the issuance of such orders prior to the filing by an administrative law judge of proposed findings of fact, conclusions of law and a recommended decision with the Executive Secretary of the FDIC.

(2) The authority delegated under paragraph (d)(1) of this section shall be exercised only upon the concurrent certification by the Deputy General Counsel for Regional and Corporate Affairs or the Assistant General Counsel for Compliance and Enforcement that the allegations contained in the notice of intent, if proven, constitute a basis for the issuance of a notice of intent pursuant to section 8(e) of the Act or that the stipulated section 8(e) order is not inconsistent with section 8(e) of the Act and is an order which has become final for purposes of enforcement pursuant to the Act.

(e) *Actions pursuant to section 8(g) of the Act (12 U.S.C. 1818(g)).* (1) Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, to issue orders of suspension and prohibition to an indicted director, officer or person participating in the conduct of the affairs of an insured bank when such director, officer or person consents to the suspension or removal.

(2) The authority delegated under paragraph (e)(1) of this section shall be exercised only upon the concurrent certification by the Deputy General Counsel for Regional and Corporate Affairs or the Assistant General Counsel for Compliance and Enforcement that the action taken is not inconsistent with section 8(g) of the Act (12 U.S.C. 1818(g)).

(f) *Actions pursuant to section 8(p) of the Act (12 U.S.C. 1818(p)).* (1) Authority is delegated to the Executive Secretary to issue consent orders terminating the insured status of insured banking institutions that have ceased to engage in the business of receiving deposits other than trust funds pursuant to section 8(p) of the Act (12 U.S.C. 1818(p)).

(2) The authority delegated under paragraph (f)(1) of this section shall be exercised only upon the recommendation and concurrence of the Director or associate director and the Deputy General Counsel for Regional and Corporate Affairs or the Assistant General Counsel for Compliance and Enforcement that the action taken is not inconsistent with section 8(p) of the Act.

(g) *Civil money penalties.* (1)(i) Except as provided for in paragraph (g)(2) of this section, authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, to issue notices of assessment of civil money penalties.

(ii) The authority delegated under paragraph (g)(1)(i) of this section shall be exercised only upon the concurrent certification by the Deputy General Counsel for Regional and Corporate Affairs or the Assistant General Counsel

for Compliance and Enforcement that the allegations contained in the notice of assessment, if proven, constitute a basis for assessment of civil money penalties.

(2) Authority is delegated to the General Counsel or designee for the levying and enforcement of civil money penalties under section 7(a)(1) of the Act (12 U.S.C. 1817(a)(1)) for the late filing of Reports of Condition and Report of Income, and such other reports as the Board of Directors may require under the authority of that section. In the exercise of the delegated authority, the General Counsel or designee shall consult with the Director or Associate Director before imposing any penalty.

(h) *Capital directives.* (1) Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to issue

(i) Notices of intent to issue directives and

(ii) Directives to insured state nonmember banks that fail to maintain capital in accordance with the requirements for contained in Part 325 of this chapter (12 CFR Part 325).

(2) The authority delegated under paragraph (h)(1) of this section shall be exercised only upon the concurrent certification by the Deputy General Counsel for Regional and Corporate Affairs or the Assistant General Counsel for Compliance and Enforcement, or in cases where a regional director or deputy regional director issues the notice of intent to issue capital directives or directives, by the appropriate regional counsel, that the action taken is not inconsistent with the Act and Part 325.

(i) *Truth in Lending Act.* (1) Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to deny requests for relief from the requirements for reimbursement under section 608(a)(2) of the Truth in Lending Simplification and Reform Act (15 U.S.C. 1607(e)(2)); *Provided However,* That a regional director or deputy regional Director are not authorized to deny any request where the estimated amount of reimbursement is greater than $10,000.

(2) Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director,

(i) To grant requests for relief from the requirements for reimbursement under section 608(a)(2) of the Truth in Lending Simplification and Reform Act (15 U.S.C. 1670(e)(2)) and

(ii) To act on petitions for reconsiderations of any action taken under paragraphs (i)(1) and (i)(2) of this section.

(3) The authority delegated under paragraphs (i)(1) and (i)(2)(i) of this section shall be exercised only upon the concurrent certification by the Deputy General Counsel for Regional and Corporate Affairs or the Assistant General Counsel for Compliance and Enforcement, or, in cases where a regional director or deputy regional director denies requests for relief, by the appropriate regional counsel, that the action taken is not inconsistent with the Truth in Lending Simplification and Reform Act.

(j) *Acceptance of written agreements.* (1) Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, to accept or enter into any written agreements with insured banks, or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank, pertaining to any matter which may be addressed by the FDIC pursuant to sections 8(a) and (b) of the Act (12 U.S.C. 1818(a) and (b)).

(2) The authority delegated under paragraph (j)(1) of this section shall be exercised only upon the concurrent certification by the Deputy General Counsel for Regional and Corporate Affairs or the Assistant General Counsel for Compliance and Enforcement that the action taken is not inconsistent with sections 8(a) and (b) of the Act.

(k) *Modifications and terminations of enforcement actions*—(1) *Upon failure or merger of bank.* Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to terminate outstanding section 8(a), section 8(b) and section 8(c) orders and to terminate actions which are pending pursuant to sections 8(a), 8(b), and 8(c) of the Act (12 U.S.C. 1818 (a), (b), (c)) when the bank is closed by a federal or state authority or merges into another institution.

(2) *Section 8(a) actions (12 U.S.C. 1818(a)).* (i) Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, to modify or terminate orders of correction issued by the Board of Directors pursuant to section 8(a) of the Act (12 U.S.C. 1818(a)) where either the respondent bank is in material compliance with the order of correction or for good cause shown.

(ii) In cases where the Board of Directors has issued a notice of intent to terminate insured status pursuant to section 8(a) of the Act (12 U.S.C. 1818(a)), authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, to terminate the actions pending pursuant to that notice of intent to terminate insured status where either the respondent bank is in material compliance with the applicable order of correction or for good cause shown.

(3) *Section 8(b) orders issued by the Board of Directors.* Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to terminate outstanding section 8(b) orders issued by the Board of Directors where either material compliance with the section 8(b) order has been achieved by the respondent bank or individual respondent or for good cause shown.

(4) *Section 8(g) orders issued by the Board of Directors.* Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, to approve requests for modifications or terminations of section 8(g) orders issued by the Board of Directors.

(5) *Other matters not specifically addressed.* For all other outstanding orders or pending actions not specifically addressed in paragraphs (k)(1), (k)(2), (k)(3) and (k)(4) of this section, the delegations of authority contained in paragraphs (a)(1) and (a)(2), (b)(1), (c)(1), (d)(1), (e)(1), (g)(1), and (g)(2), (h)(1), (i)(1) and i(2), and (j)(1) of this section shall be construed to include the authority to modify or terminate any outstanding order, directive or agreement, as may be appropriate, issued pursuant to delegated authority and to terminate any pending action (including withdrawal of notice of charges) initiated pursuant to delegated authority.

(6) *Certification.* Any modifications or terminations pursuant to paragraphs (k)(1), (k)(2), (k)(3), (k)(4), and (k)(5) of this section shall be exercised only upon the concurrent certification by the Deputy General Counsel for Regional and Corporate Affairs or the Assistant General Counsel for Compliance and Enforcement, or in cases where a regional director or deputy regional director acts under delegated authority, by the appropriate regional counsel, that the action taken is not inconsistent with the Act.

(l) *Enforcement of oustanding orders.* After consultation with the Director, or associate director, or the appropriate regional director or deputy regional

director, as may be appropriate, the General Counsel or designee is authorized to initiate and prosecute any action to enforce any effective and outstanding order or temporary order issued under 12 U.S.C. 1817, 1818, 1820, 1828(i), 1829, 1972, or 3909(d), or any provision thereof, in the appropriate United States District Court.

8. Section 303.10 is revised to read as follows:

§ 303.10 Applications and enforcement matters where authority is not delegated.

(a) *Authority not specifically delegated is retained by the Board of Directors.* (1) Except as otherwise provided in this part, or with respect to matters which generally involve conditions or circumstances requiring prompt action in the field for the better protection of the interests of the FDIC and to achieve flexibility and expedition in its operations and in the exercise of its functions in connection with the FDIC's litigation and liquidation matters and with the payment of claims for insured deposits, the Board of Directors does not delegate its authority and no delegations of final authority are made by the Board of Directors. Any person having a proper and direct concern therein may ascertain the scope of authority of any officer, agent, or employee of the FDIC by communicating with the Executive Secretary of the FDIC.

(2) In all cases where authority to act on applications, requests or enforcement matters listed in this part is not delegated to the Director, or to an associate director or a regional director or deputy regional director, the authority to act on such applications, requests, or enforcement matters remains vested in the Board of Directors of the FDIC. In addition, the Board of Directors retains the authority to act on any application, request or enforcement matter upon which any member of the Board of Directors wishes to act even if the authority to act on such application, request or enforcement matter has been delegated.

(b) *Applications and requests.* Without limiting the Board of Directors' authority, the Board of Directors has retained the authority to act upon the following applications and requests:

(1) To deny applications for merger transactions, and to approve applications for merger transactions where:

(i) The resulting bank, upon consummation of the merger transaction, would have more than 35% of the individual, partnership and corporate deposits held by commercial banks and/or thrift institutions, as may be appropriate, in the relevant market(s),

(ii) Irrespective of the resulting market share, the Attorney General has determined that the proposed merger transaction may have a significantly adverse effect on competition, or

(iii) Irrespective of the resulting market share or the Attorney General's opinion, a merger transaction between an FDIC-insured institution and an FSLIC-insured institution will result in (or is part of a series of transactions that would result in) a substantial volume of deposits insured by the FSLIC becoming deposits insured by the FDIC or vice versa;

(2) To deny applications for deposit insurance, and to approve applications for deposit insurance where:

(i) The applicant bank does not agree in writing to comply with any condition imposed by the FDIC,

(ii) The applicant bank is a United States branch of a foreign bank, or

(iii) The applicant bank has deposits insured by the Federal Savings and Loan Insurance Corporation; and

(3) To consider an application made by an insured bank pursuant to section 19 of the Act (12 U.S.C. 1829) for the employment of any director, officer, or employee who has been convicted or is hereafter convicted of any criminal offense involving dishonesty or a breach of trust following a hearing held in accordance with the provisions of Part 308 of this chapter (12 CFR Part 308).

(c) *Enforcement matters.* Without limiting the Board of Directors' authority, the Board of Directors has retained the authority to act upon the following enforcement matters:

(1) To issue

(i) Orders of correction when the respondent bank's book capital is at or above 3% of total assets and adjusted primary capital is at or above 3% of adjusted Part 325 total assets,

(ii) Notices of intent to terminate insured status and

(iii) Orders terminating insured status pursuant to section 8(a) of the Act (12 U.S.C. 1818(a));

(2) To issue cease-and-desist orders pursuant to section 8(b) of the Act (12 U.S.C. 1818(b)) when the respondent bank or individual does not consent to the issuance of such orders;

(3) To issue (i) temporary orders of suspension and prohibition pursuant to section 8(e)(4) of the Act (12 U.S.C. 1818(e)(4)) and (ii) orders of removal, suspension or prohibition from participation in the conduct of the affairs of an insured bank pursuant to section 8(e) (1), (2) and (3) of the Act (12 U.S.C. 1818(e) (1), (2) and (3)) when the individual does not consent to the issuance of such orders;

(4) To issue orders of suspension or prohibition to an indicated director, officer or person participating in the conduct of the affairs of an insured bank and orders of removal or prohibition to a convicted director, officer or person participating in the conduct of the affairs of an insured bank pursuant to section 8(g) of the Act (12 U.S.C. 1818(g)) when such director, officer or person does not consent to the suspension or removal;

(5) To issue final orders to pay civil money penalties where respondents do not consent to the assessment of civil money penalties and hearings have been held; and

(6) To deny requests for modifications or terminations of orders issued pursuant to section 8(g) of the Act (12 U.S.C. 1818(g)).

9. Section § 303.11 is revised to read as follows:

§ 303.11 Confirmation, limitations, rescissions and special cases.

(a) *Written confirmation, limitations or subsequent rescission.* (1) The authority delegated in §§ 303.7, 303.8 and 303.9 of this part by the Board of Directors to the associate director, the appropriate regional director or deputy regional director is subject, as to each associate director, regional director and deputy regional director, to written confirmation, limitations, or subsequent rescission of any confirmation, by the Director. Such written confirmation, limitations or rescissions shall be filed with the Executive Secretary of the FDIC at its offices in Washington, DC, and at the office of the regional director or deputy regional Director concerned, and shall be available for public inspection by interested parties.

(2) The conditions set forth in this part to which the exercise of delegated authority is subject are procedural in nature only and shall not be construed as standards or criteria which will be used in determining the merits of a specific application, petition, request or enforcement matter.

(b) *Action under delegated authority not mandated.* (1) The Director may, in writing, rescind the authority of an associate director, regional director to act on an application request, notice of acquisition of control or enforcement matter, and may himself act on the same.

(2) (i) An associate director, regional director or deputy regional director may, in writing, recommend that the authority to act on an application, request, notice of acquisition of control or enforcement

matter not be exercised by him; in such cases the authority to act on such application, request, notice of acquisition of control or enforcement matter may be exercised by the Director. The Director may, in writing, recommend that the authority to act on an application, request, notice of acquisition of control or enforcement matter may not be exercised by him; in such cases the Board of Directors will act on the application, request, notice of acquisition of control or enforcement matter.

(ii) A regional counsel may, in writing, recommend that the authority to act on an application made by insured banks pursuant to section 19 of the Act (12 U.S.C. 1829) or an enforcement matter not be exercised by him; in such cases the authority to act in such enforcement matters may be exercised by the Deputy General Counsel for Regional and Corporate Affairs or the Assistant General Counsel for Compliance and Enforcement. The Deputy General Counsel for Regional and Corporate Affairs or the Assistant General Counsel may, in writing, recommend that the authority to act on an application pursuant to section 19 of the Act or enforcement matter not be exercised by him; in such cases the Board of Directors will act on the application or enforcement matter.

(iii) Upon determining not to act upon the application, request, notice of acquisition of control or enforcement matter under delegated authority, the deputy regional director, regional director, associate director or the director, and/or the regional counsel or the Assistant General Counsel for Compliance and Enforcement or the Deputy General Counsel for Regional and Corporate Affairs, as the case may be, shall forward the application, request, notice of acquisition of control or enforcement matter together with his recommendations as to the disposition of such application, request, notice of acquisition of control or enforcement matter to the appropriate authority as determined by the rules set forth in paragraphs (b)(2)(i) and/or (b)(2)(ii) of this section.

(c) *Request for review.* Any aggrieved party or person may request the Board of Directors to review any action taken under authority delegated in §§ 303.7, 303.8 and 303.9 of this part.

§ 303.12 [Removed]

§ 303.13 [Redesignated as § 303.12]

10. Section 303.12 is removed and 303.13 is redesignated as § 303.12.

PART 308—RULES OF PRACTICE AND PROCEDURES

11. The authority citation for Part 308 continues to read as follows:

Authority: 12 U.S.C. 1819, 15 U.S.C. 78w, 12 U.S.C. 1972, 5 U.S.C. 504.

§ 308.01 [Amended]

12. Section 308.01 is amended by removing the phrase "303.11 and 303.13" in paragraph (b) thereof and inserting in its place the term "303.9".

13. Section 308.03 is amended by removing the word "or" before paragraph (c)(2) and before paragraph (c)(2)(ii); replacing the semicolon at the end of paragraph (c)(2)(iii) with a comma; adding the word "or" after that comma; and adding new paragraphs (c)(2)(iii) and (c)(3) to read as follows:

§ 308.03 Scope.

* * * * *

(c) * * *

(2) * * * or (iii) the provisions of the International Lending Supervision Act of 1983, or (3) any person for violation of the provisions of the Change in Bank Control Act of 1978 (12 U.S.C. 1817 (j)) or any regulation or order issued pursuant there to;

* * * * *

By Order of the Board of Directors. Dated at Washington, DC, this 15th day of September, 1987.

Hoyle L. Robinson,

Executive Secretary.

NOTE.—DERIVATION TABLE

New section	Old section (as revised)
303.0(a)	303.0(a).
303.0(b)(1) through (3) new	
303.0(b)(4)	303.0(b)(1).
303.0(b)(5) through (6) new	
303.0(b)(7)	303.0(b)(2).
303.0(b)(8) through (16) new	
303.0(b)(17)	303.2(c)(1).
303.0(b)(18) through (23) new	
303.0(b)(24)	303.0(b)(3).
303.2(c)(1)	303.2(c)(2)(i).
303.2(c)(2)	303.2(c)(2)(ii).
303.6(b)	303.6(b).
303.6(e)(1)	303.6(e).
303.6(e)(2)	303.6(e).
303.6(l)	303.6(m).
303.6(m)	303.6(n).
303.7(a)(1)(i) through (ii)	303.7(a)(6), (c)(1).
303.7(a)(1)(iii)	303.7(c)(1)(i)(A) through (D), (iii).
303.7(a)(1)(iv)	303.10(a).
303.7(a)(2)(i) through (ii) new	
303.7(a)(2)(iii)	303.7(c)(6)(ii).
303.7(b)(1) through (2) new	
303.7(b)(3)	303.7(c)(5)(i).
303.7(b)(4) through (5) new	
303.7(c)(1) through (2)	303.7(c)(8).
303.7(c)(3)	303.8(g).
303.7(d)(1)	303.7(c)(2).
303.7(d)(2)	303.7(c)(4).
303.7(d)(3)	303.7(c)(3).
303.7(d)(4)	303.10(a).
303.7(e)(1)	303.7(c)(9).
303.7(e)(2) new	
303.7(f)	303.7(a)(1) through (5), (b).
303.8(a)	303.7(c)(1).
303.8(b)(1)	303.11(b).
303.8(b)(2)	303.11(c).
303.8(c)	303.11(d).
303.8(d)	303.11(e).
303.8(e)(1)	303.11(f).
303.8(e)(2)	303.11(g).
303.8(f)	303.11(h).
303.8(g)	303.11(j).
303.9(a) through (e) new	
303.9(f)	303.12(d).
303.9(g)(1) new	
303.9(g)(2)	303.12(e).
303.9(h)	303.12(c)(10).
303.9(i) new	
303.9(j)	303.12(c)(12).
303.9(k)(1)	303.12(a).
303.9(k)(2) new	
303.9(k)(3)	303.12(c)(3)(i).
303.9(k)(4) through (6) new	
303.9(l)	303.12(b).
303.10(a)(1)	303.11(a).
303.10(a)(2)	303.10(b).
303.10(b) through (c) new	
303.11(a)(1)	303.9(a).
303.11(a)(2)	303.7(c).
303.11(b)(1)	303.9(b)(1).
303.11(b)(2)(i)	303.9(b)(1).
303.11(b)(2)(ii) new	
303.11(b)(2)(iii)	303.9(b)(2).
303.11(c)	303.12(c)(7).
303.12	303.13.

[FR Doc. 87-21705 Filed 9-18-87; 8:45 am]

BILLING CODE 6714-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Revision 2; Amdt. 45]

Delegation of Authority To Conduct Program Activities in Field Offices

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This rule increases the authority of the Branch Manager in the Sacramento, California Branch Office to approve or decline section 7(a) Guaranty Business Loans to $500,000.

In addition this rule increases the authority of the Assistant Branch Manager for Finance and Investment in Sacramento to approve direct and immediate participation section 7(a) Business Loans up to $250,000 and authority to decline the same type of loans to $350,000.

The same official's authority to approve or decline section 7(a) Guaranty Business Loans is increased to approve loans up to $350,000 and decline loans up to $500,000.

The Assistant Branch Manager for Finance and Investment in Sacramento is also delegated authority to execute written loan authorizations and cancel, reinstate, modify, or amend loan authorizations. This person is also delegated authority to extend

disbursement periods and approve service charges by participating lenders.

The Assistant Branch Manager for Finance and Investment in Sacramento is delegated authority to approve loans to Local Development Companies up to $500,000 in cases where overall project authority is less than $700,000.

Increasing the delegated authority of these officials will improve and speed program delivery by placing direct responsibility for delivering SBA assistance in an office which is easily accessible to potential applicants.

EFFECTIVE DATE: September 9, 1987.

FOR FURTHER INFORMATION CONTACT: Georgia K. Cannady, Small Business Administration, 1441 L Street, NW., Washington, DC 20416. Telephone No. (202) 653-8538.

SUPPLEMENTARY INFORMATION: Part 101 consists of rules relating to the Agency's organization and procedures; therefore, notice of proposed rulemaking, public participation, and a regulatory flexibility review, 5 U.S.C. 501 *et seq.*, are not required and this amendment is adopted without resort to those procedures.

List of Subjects in 13 CFR Part 101

Authority delegations (Government agencies), Administrative practice and procedure, Organization and functions (Government agencies).

13 CFR Part 101 is amended as follows:

PART 101—[AMENDED]

1. The authority citation for Part 101 continues to read as follows:

Authority: Secs. 4 and 5, Pub. L. 85-536, 72 Stat. 384 and 385 (15 U.S.C. 633 and 634 as amended); sec. 308, Pub. L. 85-699, 72 Stat. 694 (15 U.S.C. 687, as amended); sec. 5(b)(11), Pub. L. 93-386 (Aug. 23, 1974); and 5 U.S.C. 552.

§ 101.3-2 [Amended]

2. In § 101.3-2, Part I, Section A, 1, a (13) is revised as follows:

(13) Assistant Branch Manager/F&I, Gulfport, Milwaukee, Springfield, Ill., and Sacramento B.O.'s only.

Approve—$250,000
Decline—$350,000

3. In § 101.3-2, Part I, Section A, 1, b, (11) is revised as follows:

(11) Branch Manager, Corpus Christi, Milwaukee, Springfield, Ill., Springfield, Mo., and Sacramento.

Approve—$500,000
Decline—$500,000

4. In § 101.3-2, Section A, 1, b, (15) is revised as follows:

(15) Assistant Branch Manager/F&I, Milwaukee, Springfield, Ill., and Sacramento B.O.'s.

Approve—$350,000
Decline—$500,000

5. In § 101.3-2, Section B, 2, a, (12) is revised as follows:

(12) Assistant Branch Manager/F&I, Gulfport, Corpus Christi, Milwaukee, Springfield, Ill., and Sacramento B.O.'s only.

6. In § 101.3-2, Section B, 2, B, (12) is revised as follows:

(12) Assistant Branch Manager/F&I, Gulfport, Corpus Cristi, Milwaukee, Springfield, Ill., and Sacramento B.O.'s only.

7. In § 101.3-2, Section B, 3, a, (10) is revised as follows:

(10) Assistant Branch Manager/F&I, Gulfport, Corpus Christi, Milwaukee, and Sacramento B.O.'s.

8. In § 101.3-2, Section B, 4, k is revised as follows:

Assistant Branch Manager/F&I, Gulfport, Corpus Christi, Milwaukee, Springfield, Ill., and Sacramento B.O.'s only.

9. In § 101.3-2, Part I, Section C, 2, c, (11) is added to read:

(11) Assistant Branch Manager/F&I, Sacramento B.O.—$500,000.

10. In § 101.3-2, Part IV, Section A, 1, d, (12) is revised as follows:

(12) Assistant Branch Manager/F&I, Gulfport, Corpus Christi, Milwaukee, Springfield, Ill., and Sacramento B.O.'s only.

Dated: September 9, 1987.

James Abdnor,

Administrator.

[FR Doc. 87-21395 Filed 9-18-87; 8:45 am]

BILLING CODE 8025-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-3214]

Prohibited Trade Practices, and Affirmative Corrective Actions; Walgreen Co.

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits among other things, a Deerfield, Ill.-based retail drugstore chain from making unsubstantiated advertising claims for "Advil" pain reliever or any other over-the-counter analgesic drug product.

DATE: Complaint and Order issued June 10, 1987 [1].

FOR FURTHER INFORMATION CONTACT: FTC/A-4002, Donna Siegel Moffa, Washington, DC 20580. (202) 326-3084.

SUPPLEMENTARY INFORMATION: On Monday, March 2, 1987, there was published in the **Federal Register**, 52 FR 6172, a proposed consent agreement with analysis In the Matter of Walgreen Co., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely Or Misleadingly: Section 13.10 Advertising falsely or misleadingly; S.13.20 Comparative data or merits; S.13.45 Consent; S.13.85-75 Use; S.13.170 Qualities or properties of product or service; S.13.170-6 Analgesic; S.13.190 Results; S.13.205 Scientific or other relevant facts. Subpart—Corrective Actions And/Or Requirements: S.13.533 Corrective actions and/or requirements; S.13.533-45 Maintain records; S.13.533-45(a) Advertising substantiation. Subpart—Misrepresenting Oneself and Goods—Goods: S.13.1710 Qualities or properties; S.13.1730 Results; S.13.1740 Scientific or other relevant facts. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: S.13.1885 Qualities or properties; S.13.1895 Scientific or other relevant facts.

List of Subjects in 16 CFR Part 13

Advertising, Over-the-counter drugs, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5; 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Emily H. Rock,

Secretary.

[FR Doc. 87-21696 Filed 9-18-87; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

16 CFR Part 13

[Docket No. C-3213]

Prohibited Trade Practices, and Affirmative Corrective Actions; Plas-Tix USA, Inc.

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits among other things, a Miamisburg, Ohio manufacturer of lighter-to-lighter automobile battery chargers from claiming that the chargers are jumper cables or that they can restart a disabled vehicle as quickly as jumper cables. Also, respondent is required to make specified disclosures on its packaging and in advertisements for a period of five years.

DATE: Complaint and Order issued June 5, 1987.[1]

FOR FURTHER INFORMATION CONTACT: FTC/H-238A, Allen Hile, Washington, DC 20580. (202) 326-3122.

SUPPLEMENTARY INFORMATION: On Wednesday, March 18, 1987, there was published in the **Federal Register**, 52 FR 8461, a proposed consent agreement with analysis In the Matter of Plas-Tix USA, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely Or Misleadingly: Section 13.10 Advertising falsely or misleadingly; § 13.170 qualities or properties of product or service; § 13.170-78 Renewing, restoring; § 13.205 Scientific or other relevant facts. Subpart—Corrective Actions And/Or Requirements: Section 13.533 Corrective actions and/or requirements; § 13.533-10 Corrective advertising; § 13.533-20 Disclosures; § 13.533-45 Maintain records. Subpart—Misbranding Or Mislabeling: Section 13.1170 Advertising and promotion; § 13.1290 Qualities or properties. Subpart—Misrepresenting Oneself and Goods—Goods: Section 13.1710 Qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: Section 13.1885 Qualities or properties; § 13.1895 Scientific or other relevant facts.

List of Subjects in 16 CFR Part 13

Lighter-to-lighter auto battery charges, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 87-21695 Filed 9-18-87; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th St. and Pennsylvania Avenue, NW., Washington, DC 20580.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 17

[Docket No. R-87-1350; FR-2375]

Administrative Claims; Authority To Compromise Claims or To Suspend or Terminate Collection Action

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule expands the authority of HUD claims collection officers under the Debt Collection Act to compromise claims or to suspend or terminate collection actions by raising the current $400 claim limit to a maximum amount to be established periodically by the Assistant Secretary for Administration. Further, the requirement that collection action may be compromised, suspended or terminated only when the cost of collection exceeds the amount of recovery is abolished. These changes are intended to provide the Department with greater flexibility in settling claims and in suspending or terminating collection actions. In addition, this rule will enable HUD to compromise, suspend or terminate collection action on claims under $20,000 that involve property improvement loans *and* manufactured home loans under Title I of the National Housing Act. The purpose of this latter revision is to correct an oversight in the existing regulation that limits such authority to property improvement loans under Title I.

EFFECTIVE DATE: October 26, 1987.

FOR FURTHER INFORMATION CONTACT: Samuel B. Rothman, Office of the General Counsel, Room 10240, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, telephone (202) 755-7184. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: This final rule revises 24 CFR 17.65(a) by authorizing HUD claims collection officers to compromise a claim or to suspend or terminate collection action when the claim does not exceed a maximum amount to be established periodically by the Assistant Secretary for Administration. This revision abolishes the $400 claim limit under the existing regulation, while providing greater flexibility to the Department in modifying the maximum claim amount in the future. The initial claim limit has been established in the Department's Delinquent Debt Collection Handbook at $2500.

In addition, the requirement that collection action may be compromised, suspended or terminated only when the cost of collection exceeds the amount of recovery is removed. Claims collection officers are authorized to use the same standards for ceasing collection action as those used by Department Claims Officers under 4 CFR Parts 103 and 104 (the GAO-Department of Justice Federal Claims Collection Standards).

This rule also revises 24 CFR 17.65(b)(1) to permit HUD to compromise, suspend or terminate collection action for claims under $20,000 that arise either from property improvement loans *or* manufactured home loans under Title I of the National Housing Act. Under the existing regulation, the Department is authorized to compromise, suspend or terminate collection action only on property improvement loan claims. There appears to be no rational basis for distinguishing between property improvement loans and manufactured home loans for the purpose of collection procedures, and this revision is intended to correct an apparent drafting oversight.

In undertaking these revisions, the Department has proceeded by way of final rule rather than a proposed rulemaking, because the changes are limited to expediting internal debt processing, and public notice and comment were considered to be unnecessary.

Other Matters

The Department has determined that this rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal

Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

An environmental finding under the National Environmental Policy Act (42 U.S.C. 4321 through 4347) is unnecessary since the subject matter of this rule is categorically exempt under HUD regulations at 24 CFR 50.20.

In accordance with section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities, since the effect of this rule is limited to expediting internal debt processing.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on April 27, 1987 (52 FR 14362) under Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 17

Administrative practice and procedure, Claims, Government employees.

Accordingly, the Department amends 24 CFR Part 17, Subpart C as follows:

PART 17—ADMINISTRATIVE CLAIMS

1. The authority citation for Part 17, Subpart C, is revised to read as follows:

Authority: Federal Claims Collection Act, as amended by the Debt Collection Act of 1982 (31 U.S.C. 3711, 3716–18, and 5 U.S.C. 5514); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. In § 17.65, paragraphs (a) and (b)(1) are revised to read as follows:

§ 17.65 Authority of offices to compromise claims or suspend or terminate collection action.

(a) *Small claims.* The Assistant Secretary for Administration periodically shall establish and disseminate to claims collection officers a maximum dollar amount up to which claims collection officers are authorized to compromise a claim or suspend or terminate collection action on a claim.

(b) *Claims arising under certain programs.* The office primarily responsible for the following programs of the Department is authorized, in those cases where initial collection attempts are not wholly successful, to compromise or to suspend or terminate collection action on claims not exceeding $20,000 with respect to:

(1) A claim under Title I of the National Housing Act;

* * * * *

Date: August 19, 1987.

Samuel R. Pierce, Jr.,

Secretary.

[FR Doc. 87–21743 Filed 9–18–87; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8161]

Income Tax; Taxable Years Beginning After December 31, 1953; Mortality Table Used To Determine Exclusion for Deferred Payments of Life Insurance Proceeds

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations that prescribe the mortality table to be used in determining the extent to which deferred payments of life insurance proceeds are excluded from gross income. The text of the temporary regulations set forth in this document also serves as the text of the proposed regulations for the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register.** Changes to the applicable law were made by the Tax Reform Act of 1986. The regulations affect beneficiaries of life insurance contracts who receive life insurance proceeds at a date later than the death of the insured and provide them with the guidance needed to comply with the law.

EFFECTIVE DATE: The regulations are effective October 23, 1986, and apply to amounts received with respect to deaths occurring after October 22, 1986, in taxable years ending after October 22, 1986.

FOR FURTHER INFORMATION CONTACT: Sharon L. Hall of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:LR:T) (202) 566–3288 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document amends the Income Tax Regulations (26 CFR Part 1) to provide temporary rules under sections 101(d) of the Internal Revenue Code of 1986. The temporary regulations reflect the amendment of section 101(d)(2)(B)(ii) by section 1001(b) of the Tax Reform Act of 1986 (100 Stat. 2387).

Section 101(d) provides rules relating to the payment by an insurer of life insurance proceeds at a date later than the death of the insured. Under section 101(d)(1), the amounts held by an insurer with respect to a beneficiary are prorated over the period or periods with respect to which the payments are to be made. A portion of each payment made to the beneficiary is excluded from income of the beneficiary on the basis of this proration.

In determining the amount held by an insurer with respect to a beneficiary, section 101(d)(2)(A) provides that the amount must be held by the insurer under an agreement provided for in the life insurance contract to pay that amount on a date or dates later than the death of the insured. Section 101(d)(2)(B) provides that the amount held by the insurer is equal to the value of this agreement to the beneficiary determined as of the date of death of the insured, and as discounted on the basis of the interest rate used by the insurer in calculating payments made under the agreement and mortality tables prescribed by the Secretary.

These regulations prescribe a mortality table, which does not distinguish among individuals on the basis of sex, to be used in determining the amount held by the insurer for purposes of section 101(d)(2) and in determining the period or periods with respect to which payments are to be made for purposes of section 101(d)(1). The mortality table prescribed in the regulation is the table set forth in § 1.72–7(c)(1), relating to the adjustment of investment in a contract for the refund feature in the case of a joint and survivor annuity. Life expectancy tables based on this mortality table are set forth in Tables V through VIII of § 1.72–9.

Special Analyses

The Commissioner of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis therefore is not required. A general notice of proposed rulemaking is not required by 5 U.S.C. 553 for temporary regulations. Accordingly, the temporary

regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Drafting Information

The principal author of these regulations is Sharon L. Hall of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of both substance and style.

List of Subjects in 26 CFR Parts 1.61–1 through 1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

Amendments to the Regulations

For the reasons set out in the preamble, Title 26, Chapter 1, Subchapter A, Part 1 of the Code of Federal Regulations is amended as set forth below.

Income Tax Regulations

PART 1—[AMENDED]

Paragraph 1. The authority for Part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. * * * Section 1.101–7T also issued under 26 U.S.C. 101(d)(2)(B)(ii).

Par. 2. The following new section is added immediately after § 1.101–6.

§ 1.101–7T Mortality table used to determine exclusion for deferred payments of life insurance proceeds. (Temporary).

(a) *Mortality Table.* Notwithstanding any provision of § 1.101–4 that otherwise would permit the use of a mortality table not described in this section, the mortality table set forth in § 1.72–7(c)(1) must be used to determine—

(1) The amount held by an insurer with respect to a beneficiary for purposes of section 101(d)(2) and § 1.101–4; and

(2) The period or periods with respect to which payments are to be made for purposes of section 101(d)(1) and § 1.101–4.

(b) *Examples.* The principles of this section may be illustrated by the following examples:

Example (1). A life insurance policy provides only for the payment of $5,000 per year for the life of the beneficiary, A, beginning with the insured's death. If A is 59 years of age at the time of the insured's death, the period with respect to which the payments are to be made is 25 years. This period is determined by using the mortality table set forth in § 1.72–7(c)(1), and is shown in Table V of § 1.72–9 (which contains life expectancy tables determined using this mortality table). If the present value of the proceeds, determined by reference to the interest rate used by the insurance company and the mortality table set forth in § 1.72–7(c)(1), is $75,000, $3,000 of each $5,000 payment ($75,000 divided by 25) is excluded from the gross income of A.

Example (2). A life insurance policy provides for the payment of $82,500 in a lump sum to the beneficiary, A, at the death of the insured. Upon the insured's death, however, A selects an option for the payment of $2,000 per year for life and for the same amount to be paid after A's death to B for B's life. If A is 51 years of age and B is 28 years of age at the death of the insured, the period with respect to which the payments are to be made is 55 years. This period is determined by using the mortality table set forth in § 1.72–7(c)(1), and is shown in Table VI of § 1.72–9 (which contains life expectancy tables determined using this mortality table). Accordingly $1,500 of each $2,000 payment ($82,500 divided by 55) is excluded from the gross income of the recipient.

(c) *Effective date.* This section applies to amounts received with respect to deaths occurring after October 22, 1986, in taxable years ending after October 22, 1986.

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impractical to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Approved: August 25, 1987.

O. Donaldson Chapoton,

Acting Assistant Secretary of the Treasury.

[FR Doc. 87–21711 Filed 9–18–87; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

29 CFR Part 697

Industries in American Samoa; Wage Order

AGENCY: Employment Standards Administration, Wage and Hour Division, Labor.

ACTION: Final rule.

SUMMARY: Under the Fair Labor Standards Act, minimum wage rates in American Samoa are set by a special industry committee appointed by the Secretary of Labor. After such a committee has investigated conditions in American Samoa, it recommends minimum wage rates which must be published in the **Federal Register** and which become the new wage rates. Industry Committee No. 18 for American Samoa has completed its review and established new minimum wage rates, which are published herewith.

EFFECTIVE DATE: This rule shall become effective on October 7, 1987.

FOR FURTHER INFORMATION CONTACT: Herbert J. Cohen, Deputy Administrator, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue NW., Room S3502, Washington, DC 20210, phone: 202–523–8305.

SUPPLEMENTARY INFORMATION: Pursuant to sections 5, 6, and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064), as amended (29 U.S.C. 205, 206, 208) and Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004); and by means of Administrative Order No. 659 (52 FR 5219), the Secretary of Labor appointed and convened Industry Committee No. 18 for Industries in American Samoa, referred to the Committee the question of the minimum rate or rates of wages to be paid under section 8 of FLSA to employees within the industries, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

The recommendations call for hourly minimum rate increases for certain industries ranging up to $.10 with an additional increase of $.10 after a year for some of these industries. For other industries, the Committee recommended no increase in the minimum wage rates. The Committee was unable to reach a recommendation for the tuna canning industry or for the American Samoa Government (its employees comprise the government employees industry and a portion of the miscellaneous activities industry). The Committee found the existing industry classifications appropriate with the exception of the laundry, ship maintenance, government employment, and miscellaneous classifications. The ship maintenance industry was established as a separate classification, while the laundry classification was eliminated, thus bringing any employers in the latter classification within the coverage of the

miscellaneous activities classification. The miscellaneous activities classification was changed to include "all traditional government employment" as was the government employees classification to include "business operations, nontraditional activities".

The wage rates established by committee recommendation supersede those established by operation of section 11 of the Insular Areas Regulation Act (Pub. L. 99–396), which was signed by the President on August 27, 1986. These rates were published in the **Federal Register** on October 31, 1986 (51 FR 39751). Section 11 denied effect to the rates established by the recommendations of Industry Committee No. 17 which were published on June 20, 1986 (51 FR 22517) and corrected on July 15, 1986 at 51 FR 25525.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950 and 29 CFR 511.18, the recommendations of Industry Committee No. 18 are hereby published, revising §§ 697.1 and 697.3 of Part 697, Title 29, Code of Federal Regulations.

Because, under sections 5, 6, and 8 of the Fair Labor Standards Act and 29 CFR 511.18, the Department has no authority to disapprove the recommended rates set by the industry committee, the Department finds, pursuant to 5 U.S.C. 553(b)(3)(B), that notice and public procedure thereon under the Administrative Procedure Act are not necessary.

This document was prepared under the direction and control of Paula V. Smith, Administrator, Wage and Hour Division.

Executive Order 12291

This rule is not a "major rule" under Executive Order 12291 because it is not likely to result in: (1) An annual effect in the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign based enterprises in domestic or foreign markets. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for the rule under 5 U.S.C. 553(b) the requirements of the Regulatory Flexibility Act, Pub. L. 96–354, Stat. 1164, 5 U.S.C. 601 *et seq.* pertaining to regulatory flexibility analysis, do not apply to this rule. See: 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 697

Minimum wages, American Samoa.

Accordingly, Part 697 of Chapter V of Title 29, Code of Federal Regulations is amended as set forth below.

PART 697—INDUSTRY IN AMERICAN SAMOA

Part 697 of Title 29 CFR is amended as follows:

1. The authority citation for Part 697 is revised to read as follows:

Authority: Secs. 5, 6, 8, 52 Stat. 1062, 1064; 29 U.S.C. 205, 206, 208.

2. Section 697.1 (b)(1), (e)(1), (f)(1), (g)(1), (h) (1) and (2), (i)(1), (j)(1), (k)(1), (m)(2), (n)(2), are revised to read as follows:

§ 697.1 Wage rates and industry definitions.

* * * * *

(b) *Shipping and transportation industry.* (1) The minimum wage for classification A, stevedore, lighterage and maritime shipping agency activity, is $2.90 an hour for a period of 1 year following the October 7, 1987 effective date specified in § 697.3 and $3.00 an hour thereafter. The minimum wage for classification B, all other activities, is $2.75 an hour for a period of 1 year following the October 7, 1987 effective date specified in § 697.3 and $2.85 an hour thereafter.

* * * * *

(e) *Construction industry.* (1) The minimum wage for this industry is $2.50 an hour for a period of 1 year following the October 7, 1987 effective date specified in § 697.3 and $2.60 an hour thereafter.

* * * * *

(f) *Hotel industry.* (1) The minimum wage for this industry is $1.85 an hour effective October 7, 1987.

* * * * *

(g) *Retailing, wholesaling and warehousing industry.* (1) The minimum wage for this industry is $2.15 an hour for a period of 1 year following the October 7, 1987 effective date specified in § 697.3 and $2.25 an hour thereafter.

* * * * *

(h) *Ship maintenance industry.* (1) The minimum wage for this industry is $2.50 an hour effective October 7, 1987.

(2) This industry is defined as all work activity associated with ship repair and maintenance, including marine railway and dry dock operations.

* * * * *

(i) *Bottling and dairy products.* (1) The minimum wage for this industry is $2.15 an hour for a period of 1 year following the October 7, 1987 effective date specified in § 697.3 and $2.25 an hour thereafter.

* * * * *

(j) *Printing and publishing industry.* (1) The minimum wage for this industry is $2.40 an hour for a period of 1 year following the October 7, 1987 effective date specified in § 697.3 and $2.50 an hour thereafter.

* * * * *

(k) *Finance and insurance industry.* (1) The minimum wage for this industry is $2.61 an hour for a period of 1 year following the October 7, 1987 effective date specified in § 697.3 and $2.71 an hour thereafter.

* * * * *

(m) *Government employees industry.*

* * *

(2) This industry includes all activities of employees of the Government of American Samoa (business operations, nontraditional activities). This industry does not include any employees of the United States or its agencies.

* * * * *

(n) *Miscellaneous activities industry.*

* * *

(2) This industry shall include every activity not included in any other industry defined herein. This classification includes all traditional government employment.

* * * * *

3. Section 697.3 is revised to read as follows:

§ 697.3 Effective dates.

The wage rates specified in § 697.1 are effective as follows:

(a) Paragraphs (b), (e), (f), (g), (h), (i), (j), and (k) of § 697.1, on October 7, 1987.

(b) Paragraphs (a), (c), (d), (l), (m), and (n) of § 697.1, on August 27, 1986.

Signed at Washington, DC, this 10th day of September 1987.

Paula V. Smith,

Administrator, Wage and Hour Division, U.S. Department of Labor.

[FR Doc. 87–21686 Filed 9–18–87; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 368

[DOD Directive 5100.1]

Functions of the Department of Defense and Its Major Components

AGENCY: Office of the Secretary, DOD.

ACTION: Final rule.

SUMMARY. This part revises 32 CFR Part 368 to incorporate changes mandated by the Goldwater-Nichols DOD Reorganization Act of 1986 and other changes recommended by the President's Blue Ribbon Commission on Defense Management.

EFFECTIVE DATE: April 3, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Furtner, Office of the Deputy Assistant Secretary of Defense (Organization and Management Planning), Pentagon, Washington, DC 20301, telephone (202) 695-4281.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 368

Organization and functions (government agencies).

Accordingly, Title 32 CFR Part 36 is revised to read as follows:

PART 368—FUNCTIONS OF THE DEPARTMENT OF DEFENSE AND ITS MAJOR COMPONENTS

Sec.

368.1 Purpose.
368.2 Organizational relationships in the Department of Defense.
368.3 Functions of the Department of Defense.
368.4 Functions of the Joint Chiefs of Staff.
368.5 Functions of the Unified and Specified Combatant Commanders.
368.6 Functions of the Military Departments.
368.7 Functions of DoD Agencies.

Authority: 50 U.S.C. 401; 10 U.S.C. 125.

§ 368.1 Purpose.

This part promulgates the statement of the functions of the Department of Defense and its major components.

§ 368.2 Organizational relationships in the Department of Defense.

(a) All functions in the Department of Defense and its component agencies are performed under the authority, direction, and control of the Secretary of Defense.

(b) The Department of Defense is composed of the Office of the Secretary of Defense (OSD), the Military Departments and the Military Services within those Departments, the Joint Chiefs of Staff (JCS) and the Joint Staff, the Unified and Specified Combatant Commands, the Defense Agencies and DOD Field Activities, and such other offices, agencies, activities and commands as may be established or designated by law, or by the President or the Secretary of Defense. The functions of the heads of these offices shall be as assigned by the Secretary of Defense in accordance with existing law.

(1) In providing immediate staff assistance and advice to the Secretary of Defense, the Office of the Secretary of Defense and the Joint Chiefs of Staff, though separately identified and organized, function in full coordination and cooperation in accordance with 32 CFR Part 371.

(i) The Office of the Secretary of Defense includes the Deputy Secretary of Defense, Under Secretaries of Defense, Director of Defense Research and Engineering, Assistant Secretaries of Defense, Comptroller of the Department of Defense, Director of Operational Test and Evaluation, General Counsel of the Department of Defense, Inspector General of the Department of Defense, and such other offices and officials as may be established by law or by the Secretary of Defense.

(ii) The Chairman and the Joint Chiefs of Staff are directly responsible to the Secretary of Defense for the functions assigned to them. To the extent it does not impair his independence in the performance of the duties as a member of the Joint Chiefs of Staff, each member of the Joint Chiefs of Staff, except the Chairman, shall inform the Secretary of his Military Department regarding military advice rendered by members of the Joint Chiefs of Staff on matters affecting his Military Department.

(2) Each Military Department (the Department of the Navy to include the United States Marine Corps, and the United States Coast Guard when transferred in accordance with sections 2, 3, and 145 of 14 U.S.C.) shall be separately organized under its own Secretary and shall function under the direction, authority, and control of the Secretary of Defense. Orders to the Military Departments shall be issued through the Secretaries of these Departments, or their designees, by the Secretary of Defense or under authority specifically delegated in writing by the Secretary of Defense or as provided by law.

(i) The Secretary of each Military Department, and the civilian employees and members of the Armed Forces under the jurisdiction of the Military Department Secretary, shall cooperate fully with the Office of the Secretary of Defense to achieve efficient administration of the Department of Defense and to carry out effectively the authority, direction, and control of the Secretary of Defense.

(ii) The Secretary of Defense shall keep the Secretaries of the Military Departments informed with respect to military operations and activities of the Department of Defense that directly affect their respective responsibilities.

(3) The Commanders of the Unified and Specified Combatant Commands are responsible to the President and the Secretary of Defense for accomplishing the military missions assigned to them and shall excercise command authority over forces assigned to them as directed by the Secretary of Defense pursuant to section 10 U.S.C. 164. The operational chain of command runs from the President to the Secretary of Defense to the Commanders of the Unified and Specified Combatant Commands. The Chairman, JCS functions within the chain of command by transmitting to the Commanders of the Unified and Specified Combatant Commands the orders of the President or the Secretary of Defense.

(i) Orders to such commanders shall be issued by the President or the Secretary of Defense or by the Chairman, JCS with the authority and direction of the President or the Secretary of Defense.

(ii) Communications from the President or the Secretary of Defense to the Commanders of the Unified and Specified Combatant Commands, shall be transmitted through the Chairman, JCS. Communications from the Commanders of the Unified and Specified Combatant Commands to the President and/or the Secretary of Defense shall be transmitted through the Chairman, JCS.

(iii) Communications in matters of joint interest, addressed to the Commanders of the Unified and Specified Combatant Commands by other authority, shall, unless urgent circumstances do not permit, be coordinated with the Chairman, JCS. Information copies of all communications in matters of joint interest between Washington level offices, agencies, activities and commands and the Unified and Specified Combatant Commands shall be provided to the Chairman, JCS.

(iv) Subject to the authority, direction, and control of the Secretary of Defense, the Chairman acts as the spokesman for Commanders of the Unified and Specified Commands, especially on the operational requirements of their commands and shall be responsible for overseeing the activities of the

combantant commands. The President and the Secretary of Defense may assign other duties to the Chairman to assist the President and the Secretary of Defense in performing their command functions.

§ 368.3 Functions of the Department of Defense.

As prescribed by higher authority, the Department of Defense shall maintain and employ armed forces to:

(a) Support and defend the Constitution of the United States against all enemies, foreign and domestic.

(b) Ensure, by timely and effective military action, the security of the United States, its possessions, and areas vital to its interest.

(c) Uphold and advance the national policies and interests of the United States.

§ 368.4 Functions of the Joint Chiefs of Staff.

The Joint Chiefs of Staff, consisting of the Chairman; the Chief of Staff, U.S. Army; the Chief of Naval Operations; the Chief of Staff, U.S. Air Force; and the Commandant of the Marine Corps, and supported by the Joint Staff, constitute the immediate military staff of the Secretary of Defense.

(a) The Chairman of the Joint Chiefs of Staff is the principal military advisor to the President, the National Security Council, and the Secretary of Defense. Subject to the authority, direction, and control of the President and the Secretary of Defense, the Chairman shall be responsible for the following principal functions:

(1) Advise and assist the Secretary of Defense of the preparation of annual policy guidance for the heads of Department of Defense components for the preparation and review of program recommendations and budget proposals.

(2) Advise the Secretary of Defense on the preparation of policy guidance for the preparation and review of contingency plans.

(3) Assist the President and the Secretary of Defense in providing for the strategic direction of the armed forces, including the direction of operations conducted by the Commanders of Unified and Specified Combatant Commands.

(4) Prepare strategic plans, including plans which conform with resource levels projected by the Secretary of Defense to be available for the period of time for which the plans are to be effective.

(5) Prepare joint logistic and mobility plans to support those strategic plans and recommend the assignment of logistics and mobility responsibilities to the armed forces in accordance with those logistic and mobility plans.

(6) Prepare military strategy and assessments of the associated risks. These will include the following:

(i) A military strategy to support national objectives within policy and resource level guidance provided by the Secretary of Defense. Such strategy will include broad military option prepared by the Chairman with the advice of the Joint Chiefs of Staff and the Commanders of the Unified and Specified Combatant Commands.

(ii) Net assessments to determine the capabilities of the Armed Forces of the United States and its allies as compared to those of possible adversaries.

(7) Provide for the preparation and review of contingency plans which conform to policy guidance from the President and the Secretary of Defense.

(8) Prepare joint logistics and mobility plans to support those contingency plans and recommend the assignment of logistic and mobility responsibilities to the Armed Forces in accordance with those logistic and mobility plans.

(9) Advise the Secretary of Defense on critical deficiencies and strengths in force capabilities (including manpower, logistic, and mobility support) identified during the preparation and review of contingency plans, and assess the effect of such deficiencies and strengths on meeting national security objectives and policy and on strategic plans.

(10) After consultation with the Commanders of the Unified and Specified Combatant Commands, establish and maintain a uniform system for evaluating the preparedness of each unified and specified combatant command to carry out missions assigned to the command.

(11) Advise the Secretary of Defense on the priorities of the requirements, especially operational requirements, identified by the Commanders of the Unified and Specified Combatant Commands.

(12) Advise the Secretary of Defense on the extent to which the program recommendations and budget proposals of the Military Departments and other components of the Department of Defense conform with the priorities established in strategic plans and with the priorities established for requirements of the Commanders of the Unified and Specified Combatant Commands.

(13) If deemed necessary, submit to the Secretary of Defense alternative program recommendations and budget proposals, within projected resource levels and guidance provided by the Secretary of Defense, to achieve greater conformance with the priorities established in strategic plans and with the priorities for the requirements of the Commanders of the Unified and Specified Combatant Commands.

(14) In accordance with guidance of the Secretary of Defense, recommend budget proposals for activities of each unified and specified combatant command, as appropriate. Activities for which funding may be requested include:

(i) Joint Exercises.

(ii) Force Training.

(iii) Contingencies.

(iv) Selected Operations.

(15) Advise the Secretary of Defense on the extent to which the major programs and policies of the armed forces in the area of manpower conform with strategic plans.

(16) Assess military requirements for defense acquisition programs.

(17) Develop and establish doctrine for all aspects of the joint employment of the Armed Forces.

(18) Formulate policies for coordinating the military education and training of members of the Armed Forces.

(19) Provide for representation of the United States on the Military Staff Committee of the United Nations in accordance with the Charter of the United Nations.

(20) Submit to the Secretary of Defense, not less than once every three years, a report containing such recommendations for changes in the assignment of functions (roles and missions) to the Armed Forces as the Chairman considers necessary to achieve maximum effectiveness of the Armed Forces.

(21) Prescribe the duties and functions of the Vice Chairman, JCS, subject to approval of the Secretary of Defense.

(22) Exercise exclusive direction of the Joint Staff.

(23) Subject to the direction of the President, attend and participate in meetings of the National Security Council.

(24) Advise and assist the President and the Secretary of Defense on establishing unified and specified combatant commands to perform military missions and on prescribing the force structure of those commands.

(25) Periodically, not less than every two years, review the missions, responsibilities (including geographic boundaries), and force structure of each unified and specified combatant command; and recommend to the President through the Secretary of Defense, any changes to missions, responsibilities, and force structure, as may be necessary.

(26) Transmit communications between the President or the Secretary of Defense and the Commanders of the Unified and Specified Combatant Commands, as directed by the President.

(27) Perform duties, as assigned by the President or the Secretary of Defense, to assist the President and the Secretary of Defense in performing their command function.

(28) Oversee the activities of the unified and specified combatant commands.

(29) Advise the Secretary of Defense on whether a Commander of a Unified or Specified Combatant Command has sufficient authority, direction, and control over the commands and forces assigned to the command to exercise effective command of those commands and forces.

(30) Advise and assist the Secretary of Defense on measures to provide for the administration and support of forces assigned to each unified and specified combatant command.

(31) Advise the Secretary of Defense on whether aspects of the administration and support necessary for the accomplishment of missions should be assigned to the Commander of a Unified or Specified Combatant Command.

(32) Serve as the spokesman for Commanders of the Unified and Specified Combatant Commands, especially on the operational requirements of their commands.

(33) Provide overall supervision of those Defense Agencies and Department of Defense Field Activities for which the Chairman, JCS has been designated by the Secretary of Defense to oversee. Perform such other functions with respect to the Defense Agencies and Department of Defense Field Activities as may be assigned by the Secretary of Defense.

(34) Periodically, not less than every two years, report to the Secretary of Defense on the responsiveness and readiness of designated combat support agencies.

(35) Provide for the participation of combat support agencies in joint training exercises, assess their performance, and take steps to provide for changes to improve their performance.

(36) Develop, in consultation with the director of each combat support agency, and maintain a uniform readiness reporting system for combat support agencies.

(37) Advise and assist the Secretary of Defense on the periodic review and revision of the curriculum of each professional military education school to enhance the education and training of officers in joint matters.

(38) Review the reports of selection boards that consider for promotion officers serving, or having served, in joint duty assignments in accordance with guidelines furnished by the Secretary of Defense and return the reports with determinations and comments to the Secretary of the appropriate Military Department.

(39) Advise the Secretary of Defense on the establishment of career guidelines for officers with the joint specialty.

(40) Submit to the Secretary of Defense an evaluation of the joint duty performance of officers recommended for an initial appointment to the grade of lieutenant general or vice admiral, or initial appointment as general or admiral.

(41) Promulgate Joint Chiefs of Staff publications (JCS Pubs) to provide military guidance for joint activities of the Armed Forces.

(42) Review the plans and programs of the Commanders of Unified and Specified Combatant Commands to determine their adequacy and feasibility for the performance of assigned missions.

(43) Provide military guidance for use by the Military Departments, the Military Services, and the Defense Agencies in the preparation of their respective detailed plans.

(44) Participate, as directed, in the preparation of combined plans for military action in conjunction with the armed forces of other nations.

(45) Determine the headquarters support, such as facilities, personnel, and communications, required by unified and specified combatant commands, and recommend the assignment to the Military Departments of the responsibilities for providing such support.

(46) Prepare and submit to the Secretary of Defense, for information and consideration, general strategic guidance for the development of industrial and manpower mobilization programs.

(47) Prepare and submit to the Secretary of Defense military guidance for use in the development of military aid programs and other actions relating to foreign military forces.

(48) Formulate policies for the joint training of the Armed Forces.

(49) Assess joint military requirements for command, control and communications, recommend improvements, and provide guidance on aspects that relate to the conduct of joint operations.

(50) Prepare and submit to the Secretary of Defense, for information and consideration in connection with the preparation of budgets, statements of military requirements based upon U.S. strategic war plans. These statements of requirements shall include tasks, priority of tasks, force requirements, and general strategic guidance for developing military installations and bases, and for equipping and maintaining military forces.

(51) In carrying out his functions, duties, and responsibilities, the Chairman, JCS shall, as he considers appropriate, consult with and seek the advice of the other members of the Joint Chiefs of Staff and the Commanders of the Unified and Specified Combatant Commands.

(52) Perform such other duties as the President or the Secretary of Defense may prescribe.

(b) The other members of the Joint Chiefs of Staff are military advisers to the President, the National Security Council, and the Secretary of Defense as specified below:

(1) A member of the Joint Chiefs of Staff may submit to the Chairman advice or an opinion in disagreement with, or in addition to the advice or opinion presented by the Chairman. If a member submits such advice or opinion, the Chairman shall present that advice or opinion to the President, Secretary of Defense, or National Security Council, at the same time that he presents his own advice. The Chairman will also, as he considers appropriate, inform the President, the National Security Council, or the Secretary of Defense of the range of military advice and opinion with respect to any matter.

(2) The members of the Joint Chiefs of Staff, individually or collectively, in their capacity as military advisers, will provide advice to the President, the National Security Council, or the Secretary of Defense on a particular matter when the President, the National Security Council, or the Secretary of Defense requests such advice.

(c) The Vice Chairman of the Joint Chiefs of Staff shall perform such duties as may be prescribed by the Chairman with the approval of the Secretary of Defense. When there is a vacancy in the Office of the Chairman or in the absence or disability of the Chairman, the Vice Chairman acts as Chairman and performs the duties of the Chairman until a successor is appointed or the absence or disability ceases.

§ 368.5 Functions of the Unified and Specified Combatant Commanders.

(a) Unless otherwise directed by the President or the Secretary of Defense, the authority, direction, and control of the Commander of a Unified or Specified Combatant Command with respect to the commands and forces assigned to that command include the command functions of:

(1) Giving authoritative directions to subordinate commands and forces necessary to carry out missions assigned to the command, including authoritative direction over all aspects of military operations, joint training, and logistics;

(2) Prescribing the chain of command to the commands and forces within the command;

(3) Organizing commands and forces within that command as he considers necessary to carry out missions assigned to the command;

(4) Employing forces within that command as he considers necessary to carry out missions assigned to the command;

(5) Assigning command functions to subordinate commanders;

(6) Coordinating and approving those aspects of administration and support (including control of resources and equipment, internal organization, and training), and discipline necessary to carry out missions assigned to the command; and

(7) Exercising the authority with respect to selecting subordinate commanders, selecting combatant command staff, suspending subordinates, and convening courts-martial, as provided in 10 U.S.C.

(b) If a commander of a combatant command at any time considers his authority, direction, or control with respect to any of the commands or forces assigned to the command to be insufficient to command effectively, the commander shall promptly inform the Secretary of Defense.

(c) Unless otherwise directed by the President or the Secretary of the Defense, Commanders of Unified and Specified Combatant Commands exercise authority over subordinate commanders as follows:

(1) Commanders of commands and forces assigned to a unified or specified combatant command are under the authority, direction, and control of, and are responsible to, the Commander of the Unified or Specified Combatant Command on all matters for which the Commander of the Unified or Specified Combatant Command has been assigned authority under § 386.5(a);

(2) The commander of a command or force referred to in § 386.5(c)(1) shall communicate with other elements of the Department of Defense on any matter for which the Commander of the Unified or Specified Combatant Command has been assigned authority under § 386.5(a) in accordance with procedures, if any, established by the Commander of the Unified or Specified Combatant Command;

(3) Other elements of the Department of Defense shall communicate, with the commander of a command or force referred to in § 386.5(c)(1) on any matter for which the Commander of the Unified or Specified Combatant Command has been assigned authority under § 386.5(a) in accordance with procedures, if any, established by the Commander of the Unified or Specified Combatant Command; and

(4) If directed by the Commander of the Unified or Specified Combatant Command, the commander of a command or force referred to in § 386.5(c)(1) shall advise the Commander of the Unified or Specified Combatant Command of all communications to and from other elements of the Department of Defense on any matter for which the Commander of the Unified or Specified Combatant Command has not been assigned authority under § 386.5(a).

§ 368.6 Functions of the Military Departments.

(a) The chain of command for purposes other than the operational direction of unified and specified combatant commands runs from the President to the Secretary of Defense to the Secretaries of the Military Departments to the commanders of Service forces.

(b) Subject to the authority, direction, and control of the Secretary of Defense, the Secretaries of the Military Departments are responsible for, and have the authority necessary to conduct, all affairs of their respective Departments, including the following:

(1) Recruiting.

(2) Organizing.

(3) Supplying.

(4) Equipping (including research and development).

(5) Training.

(6) Servicing.

(7) Mobilizing.

(8) Demobilizing.

(9) Administering (including the morale and welfare of personnel).

(10) Maintaining.

(11) The construction, outfitting, and repairs of military equipment.

(12) The construction, maintenance, and repair of buildings, structures, and utilities; the acquisition, management and disposal; and the management of real property of natural resources.

(c) Subject to the authority, direction, and control of the Secretary of Defense, the Secretaries of the Military Departments are responsible to the Secretary of Defense for the following activities of their respective Departments:

(1) The functioning and efficiency of their Departments;

(2) The formulation of policies and programs that are fully consistent with national security objectives and policies established by the President and the Secretary of Defense;

(3) The effective and timely implementation of policy, program, and budget decisions and instructions of the President or Secretary of Defense relating to the functions of each Military Department;

(4) Carrying out the functions of the Military Departments so as to fulfill (to the maximum extent practicable) the current and future operational requirements of the unified and specified combatant commands;

(5) Effective cooperation and coordination between the Military Departments and agencies of the Department of Defense to provide for more effective, efficient, and economical administration and to eliminate duplication;

(6) The presentation and justification of the positions of their respective departments on the plans, programs, and policies of the Department of Defense;

(7) The effective supervision and control of Military Department intelligence activities; and

(8) Such other activities as may be prescribed by law or by the President or Secretary of Defense.

(d) *Common functions of the Military Departments.* The functions of the Military Departments, under their respective Secretaries, are as follows:

(1) To prepare forces and establish reserves of manpower, equipment, and supplies for the effective prosecution of war and military operations short of war and plan for the expansion of peacetime components to meet the needs of war.

(2) To maintain in readiness mobile reserve forces, properly organized, trained, and equipped for employment in emergency.

(3) To provide adequate, timely, and reliable intelligence and counterintelligence for the Military Department and other agencies as directed by competent authority.

(4) To recruit, organize, train, and equip interoperable forces for assignment to unified and specified combatant commands.

(5) To prepare and submit budgets for their respective departments; justify before the Congress budget requests as approved by the President; and administer the funds made available for maintaining, equipping, and training the forces of their respective departments, including those assigned to unified and specified combatant commands. The budget submissions to the Secretary of Defense by the Military Departments will be prepared on the basis, among other things, of the recommendations of CINCs and of Service component commanders of forces assigned to unified and specified combatant commands.

(6) To conduct research; develop tactics, techniques, and organization; and develop and procure weapons, equipment, and supplies essential to the fulfillment of the functions assigned in this publication.

(7) To develop, garrison, supply, equip, and maintain bases and other installations, including lines of communication, and to provide administrative and logistics support for all forces and bases, unless otherwise directed by the Secretary of Defense.

(8) To provide, as directed, such forces, military missions, and detachments for service in foreign countries as may be required to support the national interests of the United States.

(9) To assist in training and equipping the military forces of foreign nations.

(10) To provide, as directed, administrative and logistic support to the headquarters of unified and specified combatant commands, to include direct support of the development and acquisition of the command and control systems of such headquarters.

(11) To assist each other in the accomplishment of their respective functions, including the provisions of personnel, intelligence, training, facilities, equipment, supplies, and services.

(12) To prepare and submit, in coordination with other Military Departments, mobilization information to the Joint Chiefs of Staff.

(e) *Common service functions.* The Army, Navy, Air Force, and Marine Corps, under their respective Secretaries, are responsible for the following functions:

(1) Determining Service force requirements and making recommendations concerning force requirements to support national security objectives and strategy and to meet the operational requirements of the unified and specified combatant commands.

(2) Planning for the use of the intrinsic capabilities of resources of the other Services which may be made available.

(3) Recommending to the Joint Chiefs of Staff the assignment and deployment of forces to unified and specified combatant commands established by the President through the Secretary of Defense.

(4) Administering Service forces.

(5) Providing logistic support for Service forces, including procurement, distribution, supply, equipment, and maintenance, unless otherwise directed by the Secretary of Defense.

(6) Developing doctrines, procedures, tactics, and techniques employed by Service forces.

(7) Conducting operational testing and evaluation.

(8) Providing for training for joint operations and joint exercises in support of unified and specified combatant command operational requirements, including the following:

(i) Development of Service training, doctrines, procedures, tactics, techniques, and methods of organization in accordance with policies and procedures established in Service publications.

(ii) Development and preparation of Service publications to support the conduct of joint training.

(iii) Determination of Service requirements to enhance the effectiveness of joint training.

(iv) Support of that joint training directed by the Commanders of the Unified and Specified Combatant Commands and conduct of such additional joint training as is mutually agreed upon by the Services concerned.

(9) Operating organic land vehicles, aircraft, and ships or craft.

(10) Consulting and coordinating with with other Services on all matters of joint concern.

(11) Participating with the other Services in the development of the doctrines, procedures, tactics, techniques, training, publications, and equipment for such joint operations as are the primary responsibility of one of the Services.

(f) The forces developed and trained to perform the primary functions set forth hereafter shall be employed to support and supplement the other Military Service forces in carrying out their primary functions, where and whenever such participation shall result in increased effectiveness and shall contribute to the accomplishment of the overall military objectives. As for collateral functions, while the assignment of such functions may establish further justification for stated force requirements, such assignment shall not be used as the sole basis for establishing additional force requirements.

(1) *Functions of the Department of the Army.* (i) The Army, within the Department of the Army, includes land combat and service forces and any organic aviation and water transport assigned. The Army is responsible for the preparation of land forces necessary for the effective prosecution of war and military operations short of war, except as otherwise assigned and, in accordance with intergrated joint mobilization plans, for the expansion of the peacetime components of the Army to meet the needs of war.

(ii) The primary functions of the Army are:

(A) To organize, train, and equip forces for the conduct of prompt and sustained combat operations on land—specifically, forces to defeat enemy land forces and to seize, occupy, and defend land areas.

(B) To organize, train, equip, and provide forces for appropriate air and missile defense and space control operations, including the provisions of forces as required for the strategic defense of the United States, in accordance with joint doctrines.

(C) To organize, equip, and provide Army forces, in coordination with the other Military Services, for joint amphibious, airborne, and space operations and to provide for the training of such forces, in accordance with joint doctrines. Specifically, the Army will:

(*1*) Develop, in coordination with the other Military Services, doctrines, tactics, techniques, and equipment of interest to the Army for amphibious operations and not provided for elsewhere.

(*2*) Develop, in coordination with the other Military Services, the doctrines, procedures, and equipment employed by Army and Marine Corps forces in airborne operations. The Army will have primary responsibility for developing those airborne doctrines, procedures, and equipment that are of common interest to the Army and the Marine Corps.

(*3*) Develop, in coordination with the other Military Services, doctrines, procedures and equipment employed by Army forces in the conduct of space operations.

(D) To organize, train, equip, and provide forces for the support and conduct of special operations.

(E) To provide equipment, forces procedures, and doctrine necessary for the effective prosecution of electronic

warfare operations and, as directed, support of other forces.

(F) To organize, train, equip, and provide forces for the support and conduct of psychological operations.

(G) To provide forces for the occupation of territories abroad, including initial establishment of military government pending transfer of this responsibility to other authority.

(H) To develop doctrines and procedures, in coordination with the other Military Services, for organizing, equipping, training, and employing forces operating on land, except that the development of doctrines and procedures for organizing, equipping, training, and employing Marine Corps units for amphibious operations will be a function of the Marine Corps coordinating, as required, with the other Military Services.

(I) To organize, train, equip, and provide forces, as directed, to operate land lines of communication.

(J) To conduct the following activities:

(*1*) Functions relating to the management and operation of the Panama Canal, as assigned by the Secretary or Deputy Secretary of Defense.

(*2*) The authorized civil works program, including projects for improvement of navigation, flood control, beach erosion control, and other water resource developments in the United States, its territories, and its possessions.

(*3*) Certain other civil activities prescribed by law.

(iii) A collateral function of the Army is to train forces to interdict enemy sea and air power and communications through operations on or from land.

(iv) Army responsibilities in support of space operations include the following:

(A) Organizing, training, equipping, and providing Army forces to support space operations.

(B) Developing in coordination with the other Military Services, tactics, techniques, and equipment employed by Army forces for use in space operations.

(C) Conducting individual and unit training of Army space operations forces.

(D) Participating with other Services in joint space operations, training, and exercises as mutually agreed to by the Services concerned, or as directed by competent authority.

(E) Providing forces for space support operations for the Department of Defense when directed.

(v) Other responsibilities of the Army. With respect to close air support of ground forces, the Army has specific responsibility for the following:

(A) Providing, in accordance with inter-Service agreements, communications, personnel, and equipment employed by Army forces.

(B) Conducting individual and unit training of Army forces.

(C) Developing equipment, tactics, and techniques employed by Army forces.

(2) *Functions of the Department of the Navy.* (i) The Navy, within the Department of the Navy, includes, in general, naval combat and service forces and such aviation as may be organic therein. The Marine Corps, within the Department of Navy, includes not less than three combat divisions and three air wings and such other land combat, aviation, and other services as may be organic therein. The Coast Guard, when operating as a Service within the Department of the Navy, includes naval combat and service forces and such aviation as may be organic therein.

(A) The Navy and Marine Corps, under the Secretary of the Navy, are responsible for the preparation of Navy and Marine Corps forces necessary for the effective prosecution of war and military operations short of war, except as otherwise assigned and, in accordance with the integrated joint mobilization plans, for the expansion of the peacetime components of the Navy and Marine Corps to meet the needs of war.

(B) During peacetime, the Department of Transportation is responsible for maintaining the United States Coast Guard in a state of readiness so that it may function as a specialized Service in the Navy in time of war or when the President directs. The Coast Guard may also perform its military functions in times of limited war or defense contingency, in support of Naval Component Commanders, without transfer to the Department of the Navy.

(ii) The primary functions of the Navy and/or Marine Corps are:

(A) To organize, train, equip and provide Navy and Marine Corps forces for the conduct of prompt and sustained combat incident to operations at sea, including operations of sea-based aircraft and land-based naval air components—specifically, forces to seek out and destroy enemy naval forces and to suppress enemy sea commerce, to gain and maintain general naval supremacy, to control vital sea areas and to protect vital sea lines of communication, to establish and maintain local superiority (including air) in an area of naval operations, to seize and defend advanced naval bases, and to conduct such land, air, and space operations as may be essential to the prosecution of a naval campaign.

(B) To maintain the Marine Corps which will be organized, trained, and equipped to provide Fleet Marine Forces of combined arms, together with supporting air components, for service with the fleet in the seizure or defense of advanced naval bases and for the conduct of such land operations as may be essential to the prosecution of a naval campaign. In addition, the Marine Corps will provide detachments and organizations for service on armed vessels of the Navy, provide security detachments for the protection of naval property at naval stations and bases, and perform such other duties as the President or the Secretary of Defense may direct. However, these additional duties must not detract from or interfere with, the operations for which the Marine Corps is primarily organized. These functions do not contemplate the creation of a second land army.

(C) Further, the Marine Corps will:

(*1*) Develop, in coordination with the other Military Services, the doctrines, tactics, techniques, and equipment employed by landing forces in amphibious operations. The Marine Corps will have primary responsibility for the development of those landing force doctrines, tactics, techniques, and equipment which are of common interest to the Army and the Marine Corps.

(*2*) Train and equip as required, forces for airborne operations, in coordination with the other Military Services, and in accordance with joint doctrines.

(*3*) Develop, in coordination with the other Military Services, doctrines, procedures, and equipment of interest to the Marine Corps for airborne operations and not provided for by the Army, which has primary responsibility for the development of airborne doctrines, procedures, and techniques, which are of common interest to the Army and Marine Corps.

(D) To organize and equip, in coordination with the other Military Services, and to provide naval forces, including naval close air support and space forces, for the conduct of joint amphibious operations, and to be responsible for the amphibious training of all forces assigned to joint amphibious operations in accordance with joint doctrines.

(E) To develop, in coordination with the other Services, the doctrines, procedures, and equipment of naval forces for amphibious operations and the doctrines and procedures for joint amphibious operations.

(F) To organize, train, equip, and provide forces for strategic nuclear warfare to support strategic deterrence.

(G) To furnish adequate, timely, reliable intelligence for the Coast Guard.

(H) To organize, train, equip, and provide forces for reconnaissance, antisubmarine warfare, protection of shipping, aerial refueling and minelaying, including the air and space aspects thereof, and controlled minefield operations.

(I) To provide the afloat forces for strategic sealift.

(J) To provide air support essential for naval operations.

(K) To organize, train, equip, and provide forces for appropriate air and missile defense and space Control operations, including the provision of forces as required for the strategic defense of the United States, in accordance with joint doctrines.

(L) To provide equipment, forces, procedures, and doctrine necessary for the effective prosecution of electronic warfare operations and, as directed, support of other forces.

(M) To furnish aerial photography, as necessary, for Navy and Marine Corps operations.

(N) To develop, in coordination with the other Services, doctrines, procedures, and equipment employed by Navy and Marine Corps forces in the conduct of space operations.

(O) To provide sea-based launch and space support for the Department of Defense when directed.

(P) To organize, train, equip, and provide forces, as directed, to operate sea lines of communication.

(Q) To organize, train, equip, and provide forces for the support and conduct of special operations.

(R) To organize, train, equip, and provide Navy and Marine Corps forces for the support and conduct of psychological operations.

(S) To coordinate with the Department of Transportation for the peacetime maintenance of the Coast Guard. During war, the Coast Guard will function as a Military Service. The specific wartime functions of the Coast Guard are as follows:

(*1*) To provide an integrated port security and coastal defense force, in coordination with the other Military Services, for the United States.

(*2*) To provide specialized Coast Guard units, including designated ships and aircraft, for overseas deployment required by naval component commanders.

(*3*) To organize and equip, in coordination with the other Military Services, and provide forces for maritime search and rescue, icebreaking, and servicing of maritime aids to navigation.

(iii) The collateral functions of the Navy and Marine Corps include the following:

(A) To interdict enemy land power, air power, and communications through operations at sea.

(B) To conduct close air and naval support for land operations.

(C) To furnish aerial imagery for cartographic purposes.

(D) To be prepared to participate in the overall air and space effort, as directed.

(E) To establish military government, as directed, pending transfer of this responsibility to other authority.

(iv) Navy and Marine Corps responsibilities in support of space operations include:

(A) Organizing, training, equipping, and providing Navy and Marine Corps forces to support space operations.

(B) Developing, in coordination with the other Military Services, tactics, techniques, and equipment employed by Navy and Marine Corps forces for use in space operations.

(C) Conducting individual and unit training of Navy and Marine Corps space operations forces.

(D) Participating with the other Services in joint space operations, training, and exercises, as mutually agreed to by the Services concerned or as directed by competent authority.

(v) Other responsibilities of the Navy and Marine Corps include:

(A) Providing, when directed, logistic support of Coast Guard forces, including procurement, distribution, supply, equipment, and maintenance.

(B) Providing air and land transport essential for naval operations and not otherwise provided for.

(C) Providing and operating sea transport for the Armed Forces other than that which is organic to the individual Services.

(D) Developing, in coordination with the other Services, doctrine and procedures for close air support for naval forces and for joint forces in amphibious operations.

(3) *Functions of the Department of the Air Force.* (i) The Air Force, within the Department of the Air Force, includes aviation forces, both combat and service, not otherwise assigned. The Air Force is responsible for the preparation of the air forces necessary for the effective prosecution of war and military operations short of war, except as otherwise assigned and, in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Air Force to meet the needs of war.

(ii) The primary functions of the Air Force include:

(A) To organize, train, equip, and provide forces for the conduct of prompt and sustained combat operations in the air—specifically, forces to defend the United States against air attack in accordance with doctrines established by the Joint Chiefs of Staff, gain and maintain general air supremacy, defeat enemy air forces, conduct space operations, control vital air areas, and establish local air superiority except as otherwise assigned herein.

(B) To organize, train, equip, and provide forces for appropriate air and missile defense and space control operations, including the provision of forces as required for the strategic defense of the United States, in accordance with joint doctrines.

(C) To organize, train, equip, and provide forces for strategic air and missile warfare.

(D) To organize, equip, and provide forces for joint amphibious, space, and airborne operations, in coordination with the other Military Services, and to provide for their training in accordance with joint doctrines.

(E) To organize, train, equip, and provide forces for close air support and air logistic support to the Army and other forces, as directed, including airlift, air support, resupply of airborne operations, aerial photography, tactical air reconnaissance, and air interdiction of enemy land forces and communications.

(F) To organize, train, equip and provide forces for air transport for the Armed Forces, except as otherwise assigned.

(G) To develop, in coordination with the other Services, doctrines, procedures, and equipment for air defense from land areas, including the United States.

(H) To organize, train, equip, and provide forces to furnish aerial imagery for use by the Army and other agencies as directed, including aerial imagery for cartographic purposes.

(I) To develop, in coordination with the other Services, tactics, techniques, and equipment of interest to the Air Force for amphibious operations and not provided for elsewhere.

(J) To develop, in coordination with the other Services, doctrines, procedures, and equipment employed by Air Force forces in airborne operations.

(K) To provide launch and space support for the Department of Defense, except as otherwise assigned.

(L) To develop, in coordination with the other Services, doctrines, procedures, and equipment employed by

Air Force forces in the conduct of space operations.

(M) To organize, train, equip, and provide land-based tanker forces for the in-flight refueling support of strategic operations and deployments of aircraft of the Armed Forces and Air Force tactical operations, except as otherwise assigned.

(N) To organize, train, equip, and provide forces, as directed to operate air lines of communications.

(O) To organize, train, equip, and provide forces for the support and conduct of special operations.

(P) To organize, train, equip, and provide forces for the support and conduct of psychological operations.

(Q) To provide equipment, forces, procedures, and doctrine necessary for the effective prosecution of electronic warfare operations and, as directed, support of other forces.

(iii) Collateral functions of the Air Force include the following:

(A) Surface sea surveillance and antisurface ship warfare through air operations.

(B) Antisubmarine warfare and antiair warfare operations to protect sea lines of communications.

(C) Aerial minelaying operations.

(D) Air-to-air refueling in support of naval campaigns.

(iv) Air Force responsibilities in support of space operations include:

(A) Organizing, training, equipping, and providing forces to support space operations.

(B) Developing, in coordination with the other Military Services, tactics, techniques, and equipment employed by Air Force forces for use in space operations.

(C) Conducting individual and unit training of Air Force space operations forces.

(D) Participating with the other Services in joint space operations, training, and exercises as mutually agreed to by the Services concerned, or as directed by competent authority.

(v) Other responsibilities of the Air Force include:

(A) With respect to amphibious operations, the Air Force will develop, in coordination with the other Services, tactics, techniques, and equipment of interest to the Air Force and not provided for by the Navy and Marine Corps.

(B) With respect to airborne operations, the Air Force has specific responsibility to:

(*1*) Provide Air Force forces for the air movement of troops, supplies, and equipment in joint airborne operations, including parachute and aircraft landings.

(*2*) Develop tactics and techniques employed by Air Force forces in the air movement of troops, supplies, and equipment.

(C) With respect to close air support of ground forces, the Air Force has specific responsibility for developing, in coordination with the other Services, doctrines and procedures, except as provided for in Navy responsibilities for amphibious operations and in responsibilities for the Marine Corps.

§ 368.7 Functions of DoD Agencies.

(a) Defense Advanced Research Projects Agency (DARPA). See 32 CFR Part 358.

(b) Defense Communications Agency (DCA). See 32 CFR Part 362.

(c) Defense Contract Audit Agency (DCAA). See 32 CFR Part 357.

(d) Defense Intelligence Agency (DIA). See 32 CFR Part 354.

(e) Defense Investigative Service (DIS). See 32 CFR Part 361.

(f) Defense Legal Services Agency (DLSA). See DoD Directive 5145.4,[1] August 12, 1981.

(g) Defense Logistics Agency (DLA). See 32 CFR Part 359.

(h) Defense Mapping Agency (DMA). See 32 CFR Part 360.

(i) Defense Nuclear Agency (DNA). See DoD Directive 5105.31,[1] March 18, 1987.

(j) Defense Security Assistance Agency (DSAA). See 32 CFR Part 363.

(k) The National Security Agency and the Central Security Service (NSA/CSS). See DoD Directive S-5100.20, December 23, 1971.

(l) Strategic Defense Initiative Organization (SDIO). See DoD Directive 5141.5,[1] February 21, 1986.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

September 15, 1987.

[FR Doc. 87-21704 Filed 9-18-87; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 61220-7033]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

[1] Copies may be obtained, if needed, from the U.S. Naval Publication and Forms Center, 5801 Tabor Avenue, ATTN: Code 301, Philadelphia, PA 19120.

ACTION: Notice of closure and request for comments.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that the Target Quota (TQ) amounts for Pacific ocean perch (POP) in Western and Central Regulatory Areas of the Gulf of Alaska will be taken by September 16, 1987. Directed fishing for, and retention of, POP is prohibited for vessels fishing in the Western and Central Regulatory areas on September 16, 1987, through the remainder of the year. This action is necessary to limit the harvest of POP to the amount that is permissible under Federal regulations implementing the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP).

DATES: This notice is effective at noon, September 16, Alaska Daylight Time (ADT), until midnight, Alaska Standard Time, December 31, 1987. Public comments on this notice should be submitted by October 1, 1987.

ADDRESSES: Comments should be addressed to Robert W. McVey, Director, Alaska Region (Regional Director), National Marine Fisheries Service, P.O. Box 021668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Janet E. Smoker (Resource Management Specialist, NMFS) 907-586-7230.

SUPPLEMENTARY INFORMATION: The FMP governs the groundfish fishery in the Exclusive Economic Zone (EEZ) in the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act (Magnuson Act). Regulations implementing the FMP are at 50 CFR Part 672. Section 672.2 of the regulations defines the Western, Central, and Eastern Regulatory Areas in the Gulf of Alaska. Under the procedure set forth at § 672.20(a), 1987 Target Quotas (TQ's) were established for each of the groundfish species, which were then apportioned among the regulatory areas or districts. One of the groundfish species is POP, for which the 1987 TQs in the Western and Central Regulatory Areas are each 1,500 mt. These TQ's were apportioned entirely to domestic annual processing (DAP).

Since July, a small fleet of factory-trawlers and several longliners have targeted or are targeting on POP and others have reported bycatch amounts of POP. The estimated catch through September 5 in the Western Regulatory Area is 1,418 mt and in the Central Regulatory Area is 1,239 mt. At current harvest levels, the quotas in each area will be reached within a week. Under § 672.20(c)(2)(i), if the Regional Director

determines that the TQ for any target species or of the "other species" category in any regulatory area or district has been or will be reached, directed fishing for that species will be prohibited and that species will be declared a prohibited species. Therefore, after 12:00 noon on September 16, further directed fishing for POP in both the Western and Central Regulatory areas is prohibited. Fishing for other groundfish species for which a quota is available in the Western and Central Regulatory Areas is permitted, but any catches of POP must be treated as a prohibited species and discarded at sea.

In making this decision, the Regional Director considered: (1) The risk of biological harm to POP stocks; (2) the risk of socioeconomic harm to authorized users of POP; and (3) the impact that a continued closure might have on the socioeconomic well-being of other domestic fisheries. The Regional Director made these findings: (1) The only fishery which would be expected to take substantial amounts of POP, that for "other rockfish", has been closed since July 15 and bycatches of POP in other groundfish fisheries are expected to be negligible; therefore there is no threat of overfishing of POP stocks; (2) the long-term economic interests of authorized users of the POP fishery are protected because the stocks are protected from additional decline; and (3) a continued closure will have no significant impact on the socioeconomic well-being of other domestic fisheries since other species of fish and shellfish will not be significantly affected.

These closures will be effective when this notice is filed for public inspection with the Federal Register and after it has been publicized for 48 hours through procedures of the Alaska Department of Fish and Game, pursuant to the Cooperative Enforcement Agreement between the Government of the United States and the State of Alaska, dated December 21, 1978.

Classification

The continued health of stocks of POP could be jeopardized unless this notice takes effect promptly. Therefore, NOAA finds for good cause that prior opportunity for public comment on this notice is contrary to the public interest and its effective date should not be delayed. This action is taken under § 672.20 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 16, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator For Fisheries, National Marine Fisheries Service.

[FR Doc. 87-21741 Filed 9-16-87; 4:50 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 52, No. 182
Monday, September 21, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 133

[Docket No. 85P-0584]

Cheeses; Proposal To Permit Expanded Use of Antimycotics on Exterior of Bulk Cheeses During Curing and Aging and To Update Formats of Several Standards

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend standards of identity for several cheeses to permit the use of antimycotics on the exterior of bulk cheeses during curing and aging and on the exterior of cheeses for manufacturing. The agency is also proposing to amend several standards to update the formats and language, provide for functional group designations of safe and suitable optional ingredients, and provide for optional ingredient labeling requirements. This action will reduce waste in cheese manufacture and will promote honesty and fair dealing in the interest of consumers.

DATES: Comments by November 20, 1987. The agency proposes that any final rule that may issue based upon this proposal shall become effective 60 days after date of publication of the final rule in the **Federal Register.**

ADDRESS: Written comments, data, or information to the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Karen L. Carson, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-485-0110.

SUPPLEMENTARY INFORMATION:

I. Antimycotics

The National Cheese Institute (NCI), 699 Prince Street, Alexandria, VA 22314, a trade association representing U.S. cheese manufacturers, has submitted a citizen petition dated December 18, 1985, requesting that FDA amend the standards of identity for brick cheese (21 CFR 133.108), brick cheese for manufacturing (21 CFR 133.109), washed curd and soaked curd cheese (21 CFR 133.136), washed curd cheese for manufacturing (21 CFR 133.137), edam cheese (21 CFR 133.138), granular and stirred curd cheese (21 CFR 133.144), granular cheese for manufacturing (21 CFR 133.145), monterey cheese and monterey jack cheese (21 CFR 133.153), muenster and munster cheese (21 CFR 133.160), muenster and munster cheese for manufacturing (21 CFR 133.161), and, by cross-reference, gouda cheese (21 CFR 133.142) and high-moisture jack cheese (21 CFR 133.154) to permit the broader use of safe and suitable antimycotics (currently permitted on cuts and slices in consumer-sized packages for a number of standardized cheeses) so that they may be used on the exterior of bulk cheeses during curing and aging and on the exterior of cheeses for manufacturing. Cheddar cheese (21 CFR 133.113), cheddar cheese for manufacturing (21 CFR 133.114), colby cheese (21 CFR 133.118), and colby cheese for manufacturing (21 CFR 133.119) were also included in NCI's petiton, but are being dealt with in a separate document on low sodium cheeses, published elsewhere in this issue of the **Federal Register.**

The grounds given by NCI in support of permitting the expanded use of safe and suitable antimycotics are: (1) It is not possible, even with advances in technology and manufacturing practices, to prevent the growth of mold on cheese surfaces; (2) the results of a survey of NCI membership indicate that, in 1983, 29 million pounds (0.83 percent) of the 3.5 billion pounds of semihard and semisoft cheese produced in the United States (70 percent of the total 5 billion pounds of all cheese products produced, excluding cottage cheese) was lost to mold spoilage through trim loss, product rejection, loss of grade, disposal as waste, store returns, product replacement, and consumer dissatisfaction; and (3) the current standards for brick cheese, washed curd and soaked curd cheese; edam cheese, granular and stirred curd cheese, monterey and monterey jack cheese, muenster and munster cheese and, by cross-reference, gouda cheese and high-moisture jack cheese permit the use of safe and suitable antimycotics on cuts and slices in consumer-sized packages of the cheeses.

FDA believes that NCI's request has merit and that the use of antimycotics will reduce waste in the manufacture of cheese and is in the best interest of both consumers and industry. FDA is, therefore, proposing to revise the standards of identity for brick cheese (§ 133.108), washed curd and soaked curd cheese (§ 133.136), edam cheese (§ 133.138), granular and stirred curd cheese (§ 133.144), monterey cheese and monterey jack cheese (§ 133.153), muenster and munster cheese (§ 133.160), and, by cross-reference, gouda cheese (§ 133.142) and high-moisture jack cheese (§ 133.154) to permit the use of safe and suitable antimycotics on the surfaces of bulk forms of these cheeses during the storage, curing, and packaging operations, in addition to use on consumer-sized cuts and slices.

FDA is also proposing, as requested by NCI, to revise the standards of identity for brick cheese for manufacturing (§ 133.109), washed curd cheese for manufacturing (§ 133.137), granular cheese for manufacturing (§ 133.145), and muenster and munster cheese for manufacturing (§ 133.161) to permit the use of safe and suitable antimycotics on the exterior of these types of cheese. Cheeses for manufacturing are made and packaged to be used as ingredients in other cheese products and in other foods. The agency agrees with NCI that this action is necessary. These types of cheeses are very often packaged in large barrels and the packaging methods used result in the cheese curd being loosely filled into the container. Because the curd is loosely packed, the exposed surface area on the curd in larger thus increasing the opportunity for mold growth. The agency wants to emphasize, and NCI concurs, that this broader use of antimycotics is not to be used in lieu of the use of good manufacturing practices or sanitary procedures, but to supplement them.

II. Format and Language Changes

NCI also requested that FDA amend §§ 133.108, 133.136, 133.144, 133.153, and 133.160 to make them consistent with the format and language amendments made in the nine cheese standards

revised in consideration of the Codex Alimentarius Recommended International Standards of Identity (Codex standards) (see 48 FR 2736; January 21, 1983). The grounds given by NCI in support of updating the format and language of these standards are that (1) the format and language used in the cheese standards revised in consideration of the Codex standards are preferable because they make the standards easier to read and use and (2) it is in the interest of both consumers and industry to promote uniformity in the format and language of food standards, including cheese standards.

FDA agrees with NCI and is therefore proposing, as requested, to update, consistent with the nine revised cheese standards, the format and language, including provisions for the label declaration of optional ingredients, in the standards of identity for brick cheese (§ 133.108), washed curd and soaked curd cheese (§ 133.136), granular and stirred curd cheese (§ 133.144), monterey cheese and monterey jack cheese (§ 133.153), and muenster and munster cheese (§ 133.160). In addition, based on the reasoning given by NCI in support of the requested format and language changes, FDA is also proposing to update the standards of identity for: Cook cheese, koch kaese (21 CFR 133.127); cream cheese (21 CFR 133.133); cream cheese with other foods (21 CFR 133.134); gammelost cheese (21 CFR 133.140); gorgonzola cheese (21 CFR 133.141); grated cheeses (21 CFR 133.146); neufchatel cheese (21 CFR 133.162); nuworld cheese (21 CFR 133.164); roquefort, sheep's milk blue-mold, and blue-mold cheese from sheep's milk (21 CFR 133.184); sap sago cheese (21 CFR 133.186); spiced cheeses (21 CFR 133.190); and by cross-reference, part-skim spiced cheeses (21 CFR 133.191).

FDA is specifically proposing to: (1) Adopt the use of functional group designations for safe and suitable optional ingredients, where appropriate; (2) provide for various forms of milk, nonfat milk, and cream; and (3) require label declaration of optional ingredients in accordance with 21 CFR Part 101. FDA believes that adopting the functional group designations will benefit consumers because manufacturers will be permitted to select less expensive or more readily available ingredients that are equally appropriate for a functional purpose. The safety and suitability of ingredients chosen from a functional group are governed by the definition of "safe and suitable" in 21 CFR 130.3(d) in conjunction with appropriate food additive regulations established under 21 CFR Parts 170, 171, and 172. The agency also believes that the use of safe and suitable functional categories will minimize any future need to amend the standards to provide for additional specific ingredients and that the cost benefits resulting from this action will be passed on to the consumer. Regarding provisions for the use of various forms of milk, nonfat milk, and cream, the agency has concluded that, from a technological standpoint, alternative forms of milk, nonfat milk, and cream, i.e., concentrated, dried, and reconstituted forms, can be used to produce the same cheese as that produced from fluid cow's milk. The agency believes that this action is consistent with the provisions in the existing standards which permit alternative manufacturing procedures as long as they do not adversely affect the physical and chemical properties of the cheese.

Finally, the agency would like to point out that, in regard to the optional ingredient labeling requirement, all ingredients in these cheeses, with the exception of salt in many standards, are optional. Only one optional ingredient is exempted from label declaration and that is artificial coloring. Artificial coloring is specifically exempted by section 403(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(k)). However, the agency urges manufacturers to declare both the presence of artificial coloring, when used, and salt.

The agency is taking this opportunity to propose revising the standard of identity for blue cheese (21 CFR 133.106) by removing § 133.106(a)(2) which establishes a maximum phenol equivalent value when unpasteurized dairy ingredients are used in the manufacture of the cheese. This provision was erroneously included in the standard when it was revised in consideration of the Codex standard (see 43 FR 42127; September 19, 1978). The purpose of the test for phenol equivalent value is to measure the presence of phosphatase, an indication that inadequately pasteurized dairy ingredients were used in the manufacture of the cheese. Many microbial curing agents, including the ones used on blue cheese, produce phosphatase. Because the test cannot distinguish between phosphatase from inadequately pasteurized dairy ingredients and microbial phosphatase from the curing agents, an maximum phenol equivalent value is not appropriate in the standard for blue cheese. Therefore, the agency is proposing to delete § 133.106(a)(2) and to correct the references to that paragraph, where necessary.

III. Related Pending Actions

In the **Federal Register** of July 19, 1984 (49 FR 29242), FDA published a proposal to amend the regulations for label designation of ingredients (21 CFR 101.4(b)(22)) to permit enzymes of animal, plant, or microbial origin used in cheese and cheese products to be declared as "enzymes." Should this proposed change in the labeling regulations become effective before the proposed amendments set out below become effective, the labeling provisions in the proposed amendments will be changed to reference new 21 CFR 101.4(b)(22).

IV. Economic Impact

In accordance with the Regulatory Flexibility Act (Pub. L. 96-354; 5 U.S.C. 601), FDA has reviewed this proposal to determine its impact on small businesses. The proposal will provide for the expanded use of antimycotics and update the format and language of several standards of identity to include alternative forms of dairy ingredients, functional groups of optional ingredients, and requirements for optional ingredient labeling.

The agency believes that this proposal provides increased flexibility in product formulation to manufacturers of cheeses. The agency recognizes that the optional ingredient labeling requirements in the proposed amendments to the standards for brick cheese, washed curd and soaked curd cheese, granular and stirred curd cheese, monterey cheese and monterey jack cheese, and muenster and munster cheese may impose a burden on those manufacturers who are not already including ingredient declarations on their labels. However, FDA points out that industry, itself, is petitioning for this requirement. FDA recognizes that some manufacturers of these cheeses may experience some economic impact as the result of these labeling regulations, however, for the most part, manufacturers will have ample opportunity to use up existing label stores. The only cost to the manufacturers will then be in the redesigning of labels that do not already include label declarations of ingredients.

Regarding the portion of the proposal dealing with expanded use of antimycotics, NCI presented data showing that, in 1983, an estimated total of 29 million pounds of semihard and semisoft cheese was lost due to mold growth on the cheese. This represents

an monetary loss of $33 million for that year alone.

Therefore, based on this information, FDA certifies that this proposed action will not have a significant economic impact on a substantial number of small entities.

V. Environmental Impact

The agency has determined under 21 CFR 25.24(b)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Comments

Interested persons may, on or before November 20, 1987, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 133

Cheese, Food standards.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Comissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, it is proposed that Part 133 be amended as follows:

PART 133—CHEESES AND RELATED CHEESE PRODUCTS

1. The authority citation for 21 CFR Part 133 continues to read as follows:

Authority: Secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)); 21 CFR 5.10 and 5.61

§ 133.106 [Amended]

2. Section 133.106 *Blue cheese* is amended in paragraph (a)(1) by revising "(a)(3)" to read "(a)(2)," by removing paragraph (a)(2), and by redesignating existing paragraph (a)(3) as (a)(2).

3. By revising § 133.108 to read as follows:

§ 133.108 Brick cheese.

(a) *Description.* (1) Brick cheese is the food prepared from dairy ingredients and other ingredients specified in this section by the procedure set forth in paragraph (a)(3) of this section, or by any other procedure which produces a finished cheese having the same physical and chemical properties. The minimum milkfat content is 50 percent by weight of the solids and the maximum moisture content is 44 percent by weight, as determined by the methods described in § 133.5. If the dairy ingredients used are not pasteurized, the cheese is cured at a temperature of not less than 35 °F for at least 60 days.

(2) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of brick cheese is not more than 5 micrograms as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section is brought to a temperature of about 88 °F and subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is cut into cubes with sides approximately ⅜ inch long, and stirred and heated so that the temperature rises slowly to about 96 °F. The stirring is continued until the curd is sufficiently firm. Part of the whey is then removed, and the mixture diluted with water or salt brine to control the acidity. The curd is transferred to forms, and drained. During drainage it is pressed and turned. After drainage the curd is salted, and the biological curing agents characteristic of brick cheese are applied to the surface. The cheese is then cured to develop the characteristics of brick cheese. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.*—(i) *Coloring.*

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iv) Antimycotic agents, the cumulative level of which shall not exceed current good manufacturing practice, may be added to the surface of the cheese.

(c) *Nomenclature.* The name of the food is "brick cheese".

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

4. By revising § 133.109 to read as follows:

§ 133.109 Brick cheese for manufacturing.

Brick cheese for manufacturing conforms to the definition and standard of identity for brick cheese prescribed by § 133.108, except that the dairy ingredients are not pasteurized and curing is not required.

5. By revising § 133.127 to read as follows:

§ 133.127 Cook cheese, koch kaese.

(a) *Description.* (1) Cook cheese, koch kaese, is the food prepared by the procedure set forth in paragraph (a)(3) of this section or by any other procedure which produces a finished cheese having the same physical and chemical properties. The maximum moisture content is 80 percent by weight, as determined by the method prescribed in § 133.5. The dairy ingredients used may be pasteurized.

(2) The phenol equivalent value of 0.25 gram of cook cheese is not more than 3 micrograms as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be warmed and is subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is cut, stirred, and heated with continued stirring, so as to separate the curd and whey. The whey is drained from the curd and the curd is cured for 2 or 3 days. It is then heated to a temperature of not less than 180 °F until the hot curd will drop from a ladle with a consistency like that of honey. The hot cheese is filled into packages and cooled. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Nonfat milk, as defined in § 133.3.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the dairy ingredients, used as a coagulation aid.

(ii) Culture of white mold.

(iii) Pasteurized cream.

(iv) Caraway seed.

(v) Salt.

(c) *Nomenclature.* The name of the food is "cook cheese" or, alternatively, "koch kaese".

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101, except that enzymes of animal, plant, microbial origin may be declared as "enzymes".

6. By revising § 133.133 to read as follows:

§ 133.133 Cream cheese.

(a) *Description.* (1) Cream cheese is the soft, uncured cheese prepared by the procedure set forth in paragraph (a)(2) of this section, or by any other procedure which produces a finished cheese having the same physical and chemical properties. The minimum milkfat content is 33 percent by weight of the finished food, and the maximum moisture content is 55 percent by weight, as determined by the methods described in § 133.5. The dairy ingredients used are pasteurized.

(2) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be homogenized and is subjected to the action of lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to coagulate the dairy ingredients. The coagulated mass may be warmed and stirred and it is drained. The moisture content may be adjusted with one or more of the optional ingredients specified in paragraph (b)(3)(ii) of this section. The curd may be pressed, chilled, and worked and it may be heated until it becomes fluid. It may then be homogenized or otherwise mixed. One or more of the optional dairy ingredients specified in paragraph (b)(1) and the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients*—(i) *Salt.* (ii) Cheese whey, concentrated cheese whey, dried cheese whey, or reconstituted cheese whey prepared by addition of water to concentrated cheese whey or dried cheese whey.

(iii) Stabilizers, in a total amount not to exceed 0.5 percent of the weight of the finished food, with or without the addition of dioctyl sodium sulfosuccinate in a maximum amount of 0.5 percent of the weight of the stabilizer(s) used.

(c) *Nomenclature.* The name of the food is "cream cheese".

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial original may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

7. By revising § 133.134 to read as follows:

§ 133.134 Cream cheese with other foods.

(a) *Description.* Cream cheese with other foods is the class of foods prepared by mixing, with or without the aid of heat, cream cheese with one or a mixture of two or more types of foods (except other cheeses) listed in paragraph (b)(1) of this section, in an amount sufficient to differentiate the mixture from cream cheese. One or more of the other optional ingredients in paragraph (b)(2) of this section may be used. The maximum moisture content of the mixture is 60 percent by weight. The minimum milkfat is 33 percent by weight of the cream cheese and in no case less than 27 percent of the finished food. The moisture and fat contents will be determined by the methods described in § 133.5, except that the method for determination of fat content is not applicable when the added food contains fat.

(b) *Optional ingredients.* The following safe and suitable optional ingredients may be used:

(1) *Foods.* Properly prepared fresh, cooked, canned, or dried fruits or vegetables; cooked or canned meats, relishes, pickles, or other suitable foods.

(2) *Other optional ingredients.* (i) Stabilizers, in a total amount not to exceed 0.8 percent, with or without the addition of dioctyl sodium sulfosuccinate in a maximum amount of 0.5 percent of the weight of the stabilizer(s) used.

(ii) Coloring.

(c) *Nomenclature.* The name of the food is "cream cheese with _____" or, alternatively, "cream cheese and _____", the blank being filled in with the name of the foods used in order of predominance by weight.

(d) *Labeling.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

8. By revising § 133.136 to read as follows:

§ 133.136 Washed curd and soaked curd cheese.

(a) *Description.* (1) Washed curd, soaked curd cheese is the food prepared by the procedure set forth in paragraph (a)(3) of this section or by any other procedure which produces a finished cheese having the same physical and chemical properties. The minimum milkfat content is 50 percent by weight of the solids and the maximum moisture content is 42 percent by weight, as determined by the methods described in § 133.5. If the dairy ingredients used are not pasteurized, the cheese is cured at a temperature of not less than 35 °F for at least 60 days.

(2) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of washed curd cheese is not more than 3 micrograms as determined by the method described in § 133.5.

(3) One of more of the dairy ingredients specified in paragraph (b)(1) of this section may be warmed, treated with hydrogen peroxide/catalase, and is subjected to the action of a lactic acid-producing bacterial culture. One or more of the clottling enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is so cut, stirred, and heated with continued stirring, as to promote and regulate the separation of whey and curd. The whey is drained off, and the curd is matted into a cohesive mass. The mass is cut into slabs, which are so piled and

handled as to promote the drainage of whey and the development of acidity. The slabs are then cut into pieces, cooled in water, and soaked therein until the whey is partly extracted and water is absored. The curd is drained, salted, stirred, and pressed into forms. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or micorbial origin.

(3) *Other optional ingredients.*—(i) *Coloring.* (ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iv) Antimycotic agents, the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the surface of the cheese.

(v) Hydrogen peroxide, followed by a sufficient quantity of catalase preparation to eliminate the hydrogen peroxide. The weight of the hydrogen peroxide shall not exceed 0.05 percent of the weight of the dairy ingredients and the weight of the catalase shall not exeed 20 parts per million of the weight of dairy ingredients treated.

(c) *Nomenclature.* The name of the food is "washed curd cheese" or, alternatively, "soaked curd cheese".

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

9. By revising § 133.137 to read as follows:

§ 133.137 Washed cured cheese for manufacturing.

Washed curd cheese for manufacturing conforms to the definition and standard of identity prescribed for washed curd cheese by § 133.136, except that the dairy ingredients are not pasteurized and curing is not required.

10. By revising § 133.140 to read as follows:

§ 133.140 Gammelost cheese.

(a) *Description.* (1) Gammelost cheese is the food prepared from nonfat milk, as defined in § 133.3, by the procedure set forth in paragraph (a)(2) of this section, or by any other procedure which produces a finished cheese having the same physical and chemical properties. The maximum moisture content is 52 percent by weight, as determined by the methods described in § 133.5.

(2) The dairy ingredients are subjected to the action of a lactic acid-producing bacterial culture. The development of acidity is continued until the dairy ingredients coagulate to a semisolid mass. The mass is stirred and heated until a temperature of about 145 °F is reached, and is held at that temperature for at least 30 minutes. The whey is drained off and the curd removed and placed in forms and pressed. The shaped curd is placed in whey and heated for 3 or 4 hours, and may again be pressed. It is then stored under conditions suitable for curing.

(b) *Noneclature.* The name of the food is "gammelost cheese".

(c) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

11. By revising § 133.141 to read as follows:

§ 133.141 Gorgonzola cheese.

(a) *Description.* (1) Gorgonzola cheese is the food prepared by the procedure set forth in paragraph (a)(2) of this section or by any other procedure which produces a finished cheese having the same physical and chemical properties. It is characterized by the presence of bluish-green mold, *Penicillium roquefortii*, throughout the cheese. The minimum milkfat content is 50 percent by weight of the solids and the maximum moisture content is 42 percent by weight, as determined by the methods described in § 133.5. The dairy ingredients used may be pasteurized. Gorgonzola cheese is at least 90 days old.

(2) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be warmed and is subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is cut into smaller portions and allowed to stand for a time. The mixed curd and whey is placed into forms permitting further drainage. While being placed in forms, spores of the mold *Penicillium roquefortii* are added. The forms are turned several times during drainage. When sufficiently drained, the shaped curd is removed from the forms and salted with dry salt or brine. Perforations are then made in the shaped curd and it is held at a temperature of approximately 50 °F at 90 to 95 percent relative humidity, until the characteristic mold growth has developed. During storage, the surface of the cheese may be scraped to remove surface growth of undesirable microorganisms. One or more of the other optional ingredients specified in paragraph (b)(3) of the this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, or corresponding products of goat origin, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Blue or green color in an amount to neutralize the natural yellow color of the curd.

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iv) Antimycotic agents, the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the surface of the cheese.

(v) Benzoyl peroxide, or a mixture of benzoyl peroxide with potassium alum, calcium sulfate, and magnesium carbonate used to bleach the dairy ingredients. The weight of the benzoyl peroxide is not more than 0.002 percent of the weight of the dairy ingredients being bleached, and the weight of the potassium alum, calcium sulfate, and magnesium carbonate, singly or combined, is not more than six times the weight of the benzoyl peroxide used. If the dairy ingredients are bleached in this manner, vitamin A is added to the curd in such quantity as to compensate for the vitamin A or its precursors destroyed in the bleaching process, and artificial coloring is not used.

(vi) Vegetable fats or oil, which may be hydrogenated, used as a coating for the rind.

(c) *Nomenclature.* The name of the food is "goronzola cheese".

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be cleared as "enzymes"; and

(2) the dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate; "milkfat from goat's milk and nonfat goat's milk", etc.

12. By revising § 133.144 to read as follows:

§ 133.144 Granular and stirred curd cheese.

(a) *Description.* (1) Granular cheese, stirred curd cheese is the food prepared by the procedure set forth in paragraph (a)(3) of this section or by any other procedure which produces a finished cheese having the same physical and chemical properties. The minimum milkfat content is 50 percent by weight of the solids and the maximum moisture content is 39 percent by weight as determined by the methods described in § 133.5. If the dairy ingredients used are not pasteurized, the cheese is cured at a temperature of not less than 35 °F for at least 60 days.

(2) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of granular cheese is not more than 3 micrograms as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be warmed, treated with hydrogen peroxide/catalase, and is subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is so cut, stirred, and heated with continued stirring, as to promote and regulate the separation of whey and curd. A part of the whey is drained off. The curd is then alternately stirred and drained to prevent matting and to remove whey from curd. The curd is then salted, stirred, drained, and pressed into forms. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.*—(i) Coloring. (ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) by weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iv) Antimyucotic agents, the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the surface of the cheese.

(v) Hydrogen peroxide, followed by a sufficient quantity of catalase preparation to eliminate the hydrogen peroxide. The weight to the hydrogen peroxide shall not exceed 0.05 percent of the weight of the dairy ingredients and the weight of the catalase shall not exceed 20 parts per million of the weight of the dairy ingredients treated.

(c) *Nomenclature.* The name of the food is "granular cheese" or, alternatively, "stirred curd cheese".

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat nonfat milk" or "nonfat milk and milkfat", as appropriate.

13. By revising § 133.145 to read as follows:

§ 133.145 Granular cheese for manufacturing.

Granular cheese for manufacturing conforms to the definition and standard of identity prescribed for granular cheese by § 133.144, except that the dairy ingredients are not pasteurized and curing is not required.

14. By revising § 133.146 to read as follows:

§ 133.146 Grated cheeses.

(a) *Description.* Grated cheeses is the class of foods prepared by grinding, grating, shredding, or otherwise comminuting cheese of one variety or a mixture of two or more varieties. The cheese varieties that may be used are those for which there are definitions and standards of identity, except that cream cheese, neufchatel cheese, cottage cheese, creamed cottage cheese, cook cheese, and skim milk cheese for manufacturing may not be used. All cheese ingredients used are either made from pasteurized milk or held at a temperature of not less than 35 °F for at least 60 days. Moisture may be removed from the cheese ingredients in the manufacture of the finished food, but no moisture is added. One or more of the optional ingredients specified in paragraph (c) of this section may be used.

(b) *Composition.* (1) Each cheese ingredient used is present at a minimum level of 2 percent of the weight of the finished food.

(2) When one variety of cheese is used, the minimum milkfat content of the food is not more than 1 percent lower than the minimum prescribed by the standard of identity for that cheese.

(3) When two or more varieties of cheese are used, the minimum milkfat content is not more than 1 percent below the arithmetical average of the minimum fat content percentages prescribed by the standards of identity for the varieties of cheese used, and in no case is the milkfat content less than 31 percent.

(4) Milkfat and moisture contents are determined by the methods described in § 133.5.

(c) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) Antimycotics.

(2) Anticaking agents.

(3) Spices.

(4) Flavorings other than those which, singly or in combination with other ingredients, simulate the flavor of cheese of any age or variety.

(d) *Nomenclature.* (1) The name of the food is "grated cheese" or "grated cheeses", as appropriate. The name of the food shall be accompanied by a declaration of the specific variety of cheese(s) used in the food and by a declaration indicating the presence of any added spice or flavoring.

(2) Any cheese varietal names used in the name of the food are those specified by applicable standards of identity, except that the designation "American cheese" may be used for cheddar, washed curd, colby, or granular cheese or for any mixture of these cheeses.

(3) The following terms may be used in place of the name of the food to describe specific types of grated cheese:

(i) If only one variety of cheese is used, the name of the food is "grated _____ cheese", the name of the cheese filling the blank.

(ii) If only parmesan and romano cheeses are used and each is present at a level of not less than 25 percent by weight of the finished food, the name of the food is "grated _____ and _____ cheese", the blanks being filled with the names "parmesan" and "romano" in order of predominance by weight. The name "reggiano" may be used for "parmesan".

(iii) If a mixture of cheese varieties (not including parmesan or romano) is used and each variety is present at a level of not less than 25 percent of the weight of the finished food, the name of the food is "grated _____ cheese", the blank being filled in with the names of the varieties in order of predominance by weight.

(iv) If a mixture of cheese varieties in which one or more varieties (not including parmesan or romano) are each present at a level of not less than 25 percent by weight of the finished food, and one or more other varieties (which may include parmesan and romano cheese) are each present at a level of not less than 2 percent but in the aggregate not more than 10 percent of the weight of the finished food, the name of the food is "grated _____ cheese with other grated cheese" or "grated _____ cheese with other grated cheeses", as appropriate, the blank being filled in with the name or names of those cheese varieties present at levels of not less than 25 percent by weight of the finished food in order of predominance, in letters not more than twice as high as the letters in the phrase "with other grated cheese(s)".

(4) The following terms may be used in place of "grated" to describe alternative forms of cheese:

(i) "Shredded", if the particles of cheese are in the form of cylinders, shreds, or strings.

(ii) "Chipped" or chopped", if the particles of cheese are in the form of chips.

(e) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", "milkfat from goat's milk" and "nonfat goat's milk", "milkfat from sheet's milk" and "nonfat sheep's milk", etc., as appropriate.

15. By revising § 133.153 to read as follows:

§ 133.153 Monterey cheese and monterey jack cheese.

(a) *Description.* (1) Monterey cheese, monterey jack cheese is the food prepared by the procedure set forth in paragraph (a)(3) of this section, or by any other procedure which produces a finished cheese having the same physical and chemical properties. The minimum milkfat content is 50 percent by weight of the solids, and the maximum moisture content is 44 percent by weight, as determined by the methods described in § 133.5. The dairy ingredients used are pasteurized.

(2) The phenol equivalent of 0.25 gram of monterey cheese is not more than 3 micrograms, as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section is subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is so cut, stirred, and heated with continued stirring, as to promote and regulate the separation of whey and curd. Part of the whey is drained off, and water or salt brine may be added. The curd is drained and placed in a muslin or sheeting cloth, formed into a ball, and pressed; or the curd is placed in a cheese hoop and pressed. Later, the cloth bandage is removed, and the cheese may be covered with a suitable coating. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) by weight of the dairy ingredients, used as a coagulation aid.

(ii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iii) Salt.

(iv) Antimycotic agents, the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the surface of the cheese.

(v) Vegetable oil, with or without rice flour sprinkled on the surface, used as a coating for the rind.

(c) *Nomenclature.* The name of the food is "monterey cheese" or, alternatively, "monterey jack cheese".

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes", and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

16. By revising § 133.160 to read as follows:

§ 133.160 Muenster and munster cheese

(a) *Description.* (1) Muenster cheese, munster cheese, is the food prepared by the procedure set forth in paragraph (a)(3) of this section or by any other procedure which produces a finished cheese having the same physical and chemical properties. The minimum milkfat content is 50 percent by weight of the solids and the maximum moisture content is 46 percent by weight, as determined by the methods described in § 133.5. The dairy ingredients used are pasteurized.

(2) The phenol equivalent of 0.25 gram of muenster cheese is not more than 3 micrograms, as determined by the methods described in § 133.5.

(3) One of more of the dairy ingredients specified in paragraph(b)(1) of this section may be warmed and is subjected to the action of a harmless lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph(b)(2) of this section is added to set the dairy ingredients to a semisolid mess. After coagulation the mass is divided into small portions, stirred, and heated, with or without dilution with water or salt brine, so as to promote and regulate the separation of whey and curd. The curd is transferred to forms permitting drainage of the whey. During drainage the curd may be pressed and turned. After drainage of the curd is removed from the forms and is salted. One or more of the other optional ingredients specified in paragraph(b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbal origin.

(3) *Other optional ingredients*—(i) *Coloring.* (ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin used in curing or flavor development.

(iv) Antimycotic agents, the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the surface of the cheese.

(v) Vegetable oil, used as a coating for the rind.

(c) *Nomenclature.* The name of the food is "muenster cheese" or, alternatively, "munster cheese",

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes", and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

17. By revising § 133.161 to read as follows:

§ 133.161 Muenster and munster cheese for manufacturing.

Muenster cheese for manufacturing conforms to the definition and standard of identity for muenster cheese prescribed by § 133.160, except that the dairy ingredients are not pasteurized.

18. By revising § 133.162 to read as follows:

§ 133.162 Neufchatel cheese.

(a) *Description.* (1) Neufchatel cheese is the soft uncured cheese prepared by the procedure set forth in paragraph(a)(2) of this section or by any other procedure which produces a finished cheese having the same physical and chemical properties. The milkfat content is not less than 20 percent but less than 33 percent by weight of the finished food and the maximum moisture content is 65 percent by weight, as determined by the methods described in § 133.5. The dairy ingredients used are pasterurized.

(2) One or more of the dairy ingredients specified in paragraph (b)(1) of this section is subjected to the action of a harmless lactic acid-producing bacterial culture, with or without one or more of the clotting enzymes specified in paragraph (b)(2) of this section. The mixture is held until the dairy ingredients coagulate. The coagulated mass may be warmed and stirred and it is drained. The moisture content may be adjusted with one of the optional ingredients in paragraph (b)(3)(ii) of this section. The curd may be pressed, chilled, worked, and heated until it becomes fluid. It may then be homogenized or otherwise mixed. One or more of the dairy ingredients specified in paragraph (b)(1) of this section or the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.*—(i) *Salt.* (ii) Cheese whey, concentrated cheese whey, dried cheese whey, or reconstituted cheese whey prepared by addition of water to concentrated cheese whey or dried cheese whey.

(ii) Stabilizers, in a total amount not to exceed 0.5 percent of the weight of the finished food, with or without the addition of dioctyl sodium sulfosuccinate in a maximum amount of 0.5 percent of the weight of the stabilizer(s) used.

(c) *Nomenclature.* The name of the food is "neufchatel cheese".

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

19. By revising § 133.164 to read as follows:

§ 133.164 Nuworld cheese.

(a) *Description.* (1) Nuworld cheese is the food prepared by the procedure set forth in paragraph (a)(2) of this section or by any other procedure which produces a finished cheese having the same physical and chemical properties. It is characterized by the presence of creamy-white mold, a white mutant of *Penicillium roquefortii*, throughout the cheese. The minimum milkfat content is 50 percent by weight of the solids and the maximum moisture content is 46 percent by weight, as determined by the methods described in § 133.5. The dairy ingredients used may be pasteurized. Nuworld cheese is at least 60 days old.

(2) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be warmed and is subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is cut into smaller portions and allowed to stand for a time. The mixed curd and whey is placed into forms permitting further drainage. While being placed in forms, spores of a white mutant of the mold *Penicillium roquefortii* are added. The forms are turned several times during drainage. When sufficiently drained, the shaped curd is removed from the forms and salted with dry salt or brine. Perforations are then made in the shaped curd and it is held at a temperature of approximately 50 °F at 90 to 95 percent relative humidity, until the characteristic mold growth has developed. During storage, the surface of the cheese may be scraped to remove surface growth of undesirable microorganisms. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Blue or green color in an amount to neutralize the natural yellow color of the curd.

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(c) *Nomenclature.* The name of the food is "nuworld cheese".

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

20. By revising § 133.184 to read as follows:

§ 133.184 Roquefort cheese, sheep's milk blue-mold, and blue-mold cheese from sheep's milk.

(a) *Description.* (1) Roquefort cheese, sheep's milk blue-mold cheese, blue-mold cheese from sheep's milk, is the food prepared by the procedure set forth in paragraph (a)(2) of this section or by any other procedure which produces a finished cheese having the same physical and chemical properties. It is characterized by the presence of bluish-green mold, *Penicillium roquefortii*, throughout the cheese. The minimum milkfat content is 50 percent by weight of the solids and the maximum moisture content is 45 percent by weight, as determined by the methods described in § 133.5. The dairy ingredients used may be pasteurized. Roquefort cheese is at least 60 days old.

(2) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be warmed and is subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is cut into smaller portions and allowed to stand for a time. The mixed curd and whey is placed into forms permitting further drainage. While being placed in forms, spores of the mold *Penicillium roquefortii* are added. The forms are turned several times during drainage. When sufficiently drained, the shaped curd is removed from the forms and salted with dry salt or brine. Perforations are then made in the shaped curd and it is held at a temperature of approximately 50 °F at 90 to 95 percent relative humidity, until the characteristic mold growth has developed. During storage, the surface of the cheese may be scraped to remove surface growth of undesirable microorganisms. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Forms of milk, nonfat milk, or cream, as defined in § 133.3, of sheep origin, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(c) *Nomenclature.* The name of the food is "roquefort cheese", or alternatively, "sheep's milk blue-mold cheese" or "blue-mold cheese from sheep's milk".

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat from sheep's milk" and "nonfat sheep's milk" or "nonfat sheep's milk" and "milkfat from sheep's milk", as appropriate.

21. By revising § 133.186 to read as follows:

§ 133.186 Sap sago cheese.

(a) *Description.* (1) Sap sago cheese is the food prepared by the procedure set forth in paragraph (a)(2) of this section or by any other procedure which produces a finished cheese having the same physical and chemical properties. The cheese is pale green in color and has the shape of a truncated cone. The maximum moisture content is 38 percent by weight, as determined by the method described in § 133.5. Sap sago cheese is not less than 5 months old.

(2) One or more of the dairy ingredients specified in paragraph (b)(1) of this section is allowed to become sour, and is heated to boiling temperature, with stirring. Sufficient sour whey is added to precipitate the casein. The curd is removed, spread out in boxes, and pressed, and while under pressure is allowed to drain and ferment. It is ripened for not less than 5 weeks. The ripened curd is dried and ground; salt and dried clover of the species *Melilotus coerulea* are added. The mixture is shaped into truncated cones and ripened. The optional ingredient in paragraph (b)(2) of this section may be added during this procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Nonfat milk, as defined in § 133.3.

(2) *Other optional ingredients.* Buttermilk.

(c) *Nomenclature.* The name of the food is "sap sago cheese".

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

22. By revising § 133.190 to read as follows:

§ 133.190 Spiced cheeses.

(a) *Description.* (1) Spiced cheeses are cheeses for which specifically applicable definitions and standards of identity are not prescribed by other sections of this part. The food is prepared by the procedure set forth in paragraph (a)(3) of this section or by any other procedure which produces a finished cheese having the same physical and chemical properties. The minimum milkfat content is 50 percent by weight of the solids, as determined by the method described in § 133.5. The food contains spices, in a minimum amount of 0.015 ounce per pound of cheese, and may contain spice oils. If the dairy ingredients are not pasteurized, the cheese is cured at a temperature of not less than 35 °F for at least 60 days.

(2) The phenol equivalent of 0.25 gram of spiced cheese is not more than 3 micrograms, as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be warmed and is subjected to the action of a harmless lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is divided into smaller portions, and so handled by stirring, heating, and diluting with water or salt brine as to promote and regulate the separation of whey and curd. The whey is drained off. The curd is removed and may be further drained. The curd is then shaped into forms, and may be pressed. At some time during the procedure, spices are added so as to be evenly distributed throughout the finished cheese. One or more of the other optional ingredients

specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, or corresponding products of goat or sheep origin, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients*— (i) *Coloring.* (ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the dairy ingredients, used as a coagulation aid.

(iii) Salt.

(iv) Spice oils which do not, alone or in combination with other ingredients, simulate the flavor of cheese of any age or variety.

(v) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(vi) Antimycotic agents, applied to the surface of slices or cuts in consumer-sized packages.

(c) *Nomenclature.* The name of the food is "spiced cheese". The following terms shall accompany the name of the food, as appropriate:

(1) The specific common or usual name of the spiced cheese, if any such name has become generally recognized; or

(2) An arbitrary or fanciful name that is not false or misleading in any particular.

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", or "milkfat from goat's milk" and "nonfat goat's milk", etc., as appropriate.

Dated: September 14, 1987.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-21708 Filed 9-18-87; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 133

[Docket No. 85P-0584]

Cheeses; Proposal To Remove Standards of Identity for Low Sodium Cheeses and To Amend Standards of Identity for Cheddar Cheese and Colby Cheese

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to remove the standards of identity for low sodium cheddar cheese and low sodium colby cheese and to amend the standards of identity for cheddar cheese and colby cheese to provide for salt substitutes as optional ingredients and for expanded use of antimycotics. The agency is also proposing to amend the standards for colby cheese and colby cheese for manufacturing to update the formats and language, to provide for safe and suitable functional ingredient categories, and to provide for optional ingredient labeling requirements. This action is taken to achieve consistency with FDA's sodium labeling regulations and to promote honesty and fair dealing in the interest of consumers.

DATE: Comments by November 20, 1987. The agency proposes that any final rule that may issue based upon this proposal shall become effective 60 days after its date of publication in the **Federal Register.**

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Karen L. Carson, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C Street SW, Washington, DC 20204, 202-485-0110.

SUPPLEMENTARY INFORMATION: The National Cheese Institute (NCI), 699 Prince St., Alexandria, VA 22314, a trade association representing U.S. cheese manufacturers, has submitted a citizen petition dated December 18, 1985, requesting that FDA (1) repeal the standards of identity for low sodium cheddar cheese (21 CFR 133.116) and low sodium colby cheese (21 CFR 133.121), and (2) amend the standards of identity for cheddar cheese (21 CFR 133.113) and for colby cheese (21 CFR 133.118) to provide for salt substitutes as optional ingredients. NCI asserts that the former action is necessary because (1) the low sodium cheese standards specify criteria and nomenclature that are not consistent with the current sodium labeling regulations (21 CFR 101.13) and (2) the best interest of consumers would be served by eliminating these inconsistencies. NCI contends that the other requested action is consistent with reducing unnecessary dietary intake of sodium and, therefore, is in the best interest of consumers.

NCI also requested that FDA amend 16 cheese standards of identity to provide for additional use of antimycotics on the exterior of bulk cheeses during curing to make them consistent with revised cheese standards which permit the use of safe and suitable antimycotics (see 48 FR 49012; October 24, 1983) and amend 6 cheese standards of identity to update the format and language of the standards to make them consistent with the language promulgated by the agency for 9 natural cheeses that were revised based on international standards of identity (see 48 FR 2736; January 21, 1983). A proposal, encompassing all of the cheese standards cited by NCI, with the exception of the standards for cheddar cheese (21 CFR 133.113), cheddar cheese for manufacturing (21 CFR 133.114), colby cheese (21 CFR 133.118), and colby cheese for manufacturing (21 CFR 133.119), based on these latter two issues appears elsewhere in this issue of the **Federal Register.** For the convenience of the reader, NCI's suggestions regarding format changes and the use of antimycotics with respect to cheddar and colby cheese products (21 CFR 133.113, 133.114, 133.118, and 133.119) have been included in this document.

I. The Proposal

A. Repeal of Standards of Identity for Low Sodium Cheddar Cheese and Low Sodium Colby Cheese

FDA has reviewed the petition and agrees with NCI that the existing standards for low sodium cheddar cheese (21 CFR 113.116) and low sodium colby cheese (21 CFR 133.121) specify criteria and nomenclature that are not consistent with the agency's sodium labeling requirements)21 CFR 101.13). Both standards of identity set a maximum sodium content requirement of 96 milligrams per pound (6 milligrams per ounce) of finished cheese and require the cheese to be labeled "low sodium," whereas the sodium labeling regulation (21 CFR 101.13(a)(2)) permits products containing less than 35 milligrams of sodium per ounce (serving) to be labeled "very low sodium." Another inconsistency lies in use of descriptors such as "low sodium." Sections 133.116 and 133.121 require the

term "low sodium" to be declared as part of the name of the food; § 101.13 prohibits declaration of "low sodium" or any other descriptor in conjunction with the name of the food. The agency is, therefore, proposing to eliminate these inconsistencies by repealing the standards of identity for low sodium cheddar cheese and low sodium colby cheese.

B. Amendment of Standards of Identity for Cheddar Cheese and Colby Cheese

FDA also agrees with NCI that, with the increased emphasis on reducing the sodium content in the diet, it would be in the best interest of consumers to provide for salt substitutes as optional ingredients in cheddar cheese (21 CFR 133.113) and colby cheese (21 CFR 133.118). The proposed removal of the standards of identity for low sodium cheddar cheese and low sodium colby cheese would result in the standards of identity for cheddar cheese and colby cheese governing the composition of lowered sodium versions of the foods. Both of the cheese standards require the use of salt in the manufacturing process, although neither standard specifies the quantity of salt to be used. Thus, a manufacturer can produce, within the compositional requirements of §§ 133.113 and 133.118, lower sodium versions of cheddar and colby cheeses that would meet the sodium labeling requirements of § 101.13. However, a manufacturer could not, without further amendment of the standards, produce cheddar or colby cheeses using only a salt substitute, as is now the case. Therefore, the agency is proposing to amend the standards to provide for the use of salt substitutes. The agency is requesting, however, data and information on the need to provide for the manufacture of cheddar and colby cheeses made without salt, as is now permitted by the standards.

C. Standards for Other Natural Cheeses

The agency believes that any of the natural cheeses for which salt is a mandatory ingredient may be made with lowered levels of sodium as long as the compositional requirements of the applicable standard and the labeling requirements of § 101.13 are both met. Most of the standards for natural cheeses require the mandatory use of salt; none provides for the optional use of salt substitutes. Because there is no mandatory minimum level of salt required in the current standards, it would be possible to manufacture cheeses containing less sodium than the traditional product. However, it would not be permissible to make the product without salt, or with salt substitutes, or with a combination of salt substitutes and salt. The agency is, therefore, requesting information on the need to provide for the use of salt substitutes as optional ingredients in other standardized natural cheeses.

The agency recognizes that sodium plays a role in the control of microbial growth (both desirable and undesirable) in natural cheeses during curing and aging. When these cheeses are made to contain less sodium than in traditional products, there is the potential for increased growth of undesirable microorganisms in the cheese. Accordingly, any information submitted in support of providing for the use of salt substitutes in the manufacture of other standardized cheeses or for their manufacture without salt should be accompained by data regarding the safety and quality of the finished foods.

D. Additional Amendments

The agency is also proposing, based on the NCI petition, to amend the standards for cheddar cheese (21 CFR 133.113) and colby cheese (21 CFR 133.118), and, by cross-reference, cheddar cheese for manufacturing (21 CFR 133.114) and colby cheese for manufacturing (21 CFR 133.119) to provide for use of optional antimycotics on the surfaces of bulk cheeses during curing and storage as well as on consumer-sized cuts and slices. This expanded use of antimycotics will reduce losses that result from mold growth on cheeses. In addition, the agency is proposing to amend the colby cheese standard to update the format and language, to provide for safe and suitable functional ingredient categories, and to provide for optional ingredient labeling requirements. These amendments will provide consistency with revisions of nine natural cheese standards that FDA amended in consideration of Codex Alimentarius Recommended International Standards (see 48 FR 2736; January 21, 1983). For simplicity, all proposed amendments to the standards of identity for cheddar cheese and colby cheese are being dealt with in this document, rather than the other cheese proposal pertaining to antimycotics usage, published elsewhere in this issue of the **Federal Register.**

The agency is also taking this opportunity to correct the language in §§ 133.113(b)(3)(v), 133.114, and 133.119 by changing the word "milk" to "dairy ingredients" wherever it appears.

In summary, the agency believes that the proposed amendments would (1) eliminate the inconsistencies that currently exist between the low sodium cheddar cheese and colby cheese standards and the requirements of the sodium labeling regulations, (2) provide for the manufacture of cheddar and colby cheeses with a wider range of sodium contents, (3) provide for expanded use of antimycotics on these cheeses, and (4) promote consistency in format and labeling requirements of cheese standards of identity.

II. Related Pending Actions

In the **Federal Register** of July 19, 1984 (49 FR 29242), FDA published a proposal to amend the regulations for label designation of ingredients (21 CFR 101.4(b)(22)) to permit enzymes of animal, plant, or microbial origin used in cheese and cheese products to be declared as "enzymes." Should this proposed change in the labeling regulations become effective before the proposed amendment of the colby cheese standard becomes effective, the labeling provisions of this proposed amended standard will be changed to reference new 21 CFR 101.4(b)(22).

III. Effective Date

The agency proposes that any final rule that may issue based upon this proposal shall become effective 60 days after its date of publication in the **Federal Register.**

IV. Economic Impact

In accordance with the Regulatory Flexibility Act (Pub. L. 96-354; 5 U.S.C. 601), FDA has reviewed this proposal to determine its impact on small businesses. The proposal will revoke the standards of identity for low sodium cheddar cheese and low sodium colby cheese and amend the standards of identity for cheddar cheese and colby cheese to provide for salt substitutes as optional ingredients and to provide for appropriate labeling when these cheeses are made to contain less sodium than the traditional products. In addition, this proposal would revise the standards for cheddar cheese and colby cheese and their counterpart standards for cheeses for manufacturing to provide for use of antimycotics on the exterior of bulk cheeses. This proposal would also revise the colby cheese standard to make it consistent with revised cheese standards of identity in format, language, provision for functional ingredient categories, and labeling requirements. The agency believes that by repealing the low sodium cheddar and colby cheese standards and amending the parent standards, this proposal would provide increased flexibility in product formulation to manufacturers of cheddar cheese and colby cheese who wish to produce lower sodium versions of these foods. In

addition, the proposed amendments to the cheddar cheese and colby cheese standards would provide manufacturers with increased flexibility in selection and use of other ingredients of those foods.

Regarding labeling requirements in the proposed amendment of the colby cheese standard, manufacturers would have ample opportunity to use up existing label stores before the requirements become effective. The only costs incurred would be in the redesigning of labels that do not already include label declarations of ingredients and that declare the name of the food as either "low sodium cheddar cheese" or "low sodium colby cheese."

The agency believes that these changes, which have been requested by the industry, would not impose a significant additional burden on the industry. Therefore, FDA certifies that this proposed action would not have a significant economic impact on a substantial number of small entities.

V. Environmental Impact

The agency has determined under 21 CFR 25.24(b)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Comments

Interested persons may, on or before November 20, 1987, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 133

Cheese, Food standards.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, it is proposed that Part 133 be amended as follows:

PART 133—CHEESES AND RELATED CHEESE PRODUCTS

1. The authority citation for 21 CFR Part 133 continues to read as follows:

Authority: Secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)); 21 CFR 5.10 and 5.61.

2. In § 133.113 by revising paragraphs (b)(3) (iv) and (v) and by adding paragraphs (b)(3)(vi) and (d)(3) to read as follows:

§ 113.113 Cheddar cheese.

* * * * *

(b) * * *

(3) * * *

(iv) Antimycotic agents, the cumulative levels of which shall not exceed good manufacturing practice, may be added to the surface of the cheese.

(v) Hydrogen peroxide, followed by a sufficient quantity of catalase preparation to eliminate the hydrogen peroxide. The weight of the hydrogen peroxide shall not exceed 0.05 percent of the weight of the dairy ingredients, and the weight of the catalase shall not exceed 20 parts per million of the weight of the dairy ingredients treated.

(vi) Salt substitutes.

* * * * *

(d) * * *

(3) Salt substitutes are declared using the phrase, "_____ added as a salt substitute", with the blank being filled in with the name(s) of the ingredient(s).

3. By revising § 133.114 to read as follows:

§ 133.114 Cheddar cheese for manufacturing.

Cheddar cheese for manufacturing conforms to the definition and standard of identity prescribed for cheddar cheese by § 133.113, except that the dairy ingredients are not pasteurized and curing is not required.

§ 131.116 [Removed]

4. By removing § 133.116 *Low sodium cheddar cheese.*

5. By revising § 133.118 to read as follows:

§ 133.118 Colby cheese.

(a) *Description.* (1) Colby cheese is the food prepared by the procedure set forth in paragraph (a)(3) of this section, or by any other procedure which produces a finished cheese having the same physical and chemical properties. The minimum milkfat content is 50 percent by weight of the solids and the maximum moisture content is 40 percent by weight, as determined by the methods described in § 133.5. If the dry ingredients used are not pasteurized, the cheese is cured at a temperature of not less than 35°F for at least 60 days.

(2) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of colby cheese is not more than 3 micrograms, as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be warmed, treated with hydrogen peroxide/catalase, and is subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is so cut, stirred, and heated with continued stirring, as to promote and regulate the separation of whey and curd. A part of the whey is drained off, and the curd is cooled by adding water, the stirring being continued so as to prevent the pieces of curd from matting. The curd is drained, salted, stirred, further drained, and pressed into forms. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennett and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.*

(i) Coloring.

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iv) Antimycotic agents, the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the surface of the cheese.

(v) Hydrogen peroxide, followed by a sufficient quantity of catalase preparation to eliminate the hydrogen peroxide. The weight of the hydrogen peroxide shall not exceed 0.05 percent of the weight of the dairy ingredients, and the weight of the catalase shall not exceed 20 parts per million of the weight of the dairy ingredients treated.

(vi) Salt substitutes.

(c) *Nomenclature.* The name of the food is "colby cheese".

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

(3) Salt substitutes are declared using the phrase, "_____ added as a salt substitute", with the blank being filled in with the name(s) of the ingredients(s).

6. By revising § 133.119 to read as follows:

§ 133.119 Colby cheese for manufacturing.

Colby cheese for manufacturing conforms to the definition and standard of identity prescribed for colby cheese by § 133.118, except that the dairy ingredients are not pasteurized and curing is not required.

§ 131.121 [Removed]

7. By removing § 131.121 *Low sodium colby cheese.*

Dated: September 14, 1987.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-21709 Filed 9-18-87; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[L-183-82]

Basis Adjustment for Investment Tax Credits

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the adjustment in the basis of property for which the investment credit has been claimed as provided in section 205 (a) and (c) of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 324) as amended by section 306 (a) (3) of the Technical Corrections Act of 1982 (Pub. L. 97-448) and sections 113 (b) (4) and 712 (b) of the Tax Reform Act of 1984 (Pub. L. 98-369). These amendments would provide guidance to taxpayers who claim an investment credit subjecting them to the basis adjustment rules with respect to that credit.

DATES: Except as provided in § 1.48-7 (m) (2), the proposed regulations are proposed to be effective for and applicable to periods beginning after December 31, 1982. Written comments and requests for a public hearing must be mailed or delivered by November 20, 1987.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-183-82), Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: David R. Haglund of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:LR:T). Telephone: 202-566-3297 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 205 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) (as amended by section 306 (a) (3) of the Technical Corrections Act of 1982 and sections 113 (b) (4) and 712 (b) of the Tax Reform Act of 1983) amended the Internal Revenue Code of 1954 to provide for the adjustment in basis of property for which an investment credit has been claimed. The proposed amendments to the Income Tax Regulations under sections 48, 196, 312, and 705 of the Internal Revenue Code of 1954 contained herein would conform the regulations to the provisions of section 205 as amended.

Explanation of Provisions

Section 48 (q) provides generally that if there is an investment tax credit determined with respect to property the basis of such property will be reduced by 50 percent of the credit (10 percent in the case of qualified rehabilitation expenditures) so determined. If the property is subsequently disposed of before the close of the useful life or the recovery period used in computing the investment tax credit, 50 percent (100 percent for qualified rehabilitation expenditures) of the credit required to be recaptured is to be added back to the basis of the property immediately before the disposition occurs. Section 1.48-7 provides rules and examples for determining the reduction of basis for the investment tax credit calculated with respect to property, and for determining the increase in basis for early dispositions of property subject to the basis reduction. Section 1.48-7 further provide that the basis reduction is to be made notwithstanding the fact that the amount of credit allowed is limited by the tax liability for the taxable year. A basis reduction is not required when the lessor of property makes a valid election under section 48 (d) to treat the lessee as the purchaser of the property for purposes of the investment tax credit. The lessee, however, will be subject to the rules under § 1.48-4 for the credit determined with respect to property for which he is treated as the purchaser.

Section 1.48-7 also provides rules with respect to the necessary adjustment in the basis of a partner's interest in a partnership or an S corporation shareholder's basis in S corporation stock to reflect the basis adjustment made at the partnership or S corporation level.

Section 48 (q) (4) provides for an election to enable taxpayers to opt out of the basis reduction rules in favor of claiming a reduced credit with respect to the property. Section 1.48-7 (i) provides rules regarding the time and manner for making the election and the percentages to use for calculating the reduced credit. The proposed regulation provides that the election to take the reduced credit is revocable only with the consent of the Commissioner and provides rules for requesting the revocation.

Section 48 (q) (5) provides that the basis reduction made with respect to property as a result of the investment tax credit will be treated as a deduction allowed for depreciation for purposes of the recapture provisions of sections 1245 and 1250. Section 1.48-7 (j) provides that a net basis reduction will be treated as a deduction allowed for depreciation under sections 1245 and 1250. Section 1.312-15 (a) (4), however, provides that in computing the earnings and profits of a corporation, the allowance for depreciation (or amortization, if any) will be computed without regard to the basis adjustment.

Section 1.48-4, relating to the lessor's election under section 48 (d) to treat the lessee of property as the owner of such property for purposes of the investment tax credit, sets forth rules, in paragraph (n), coordinating such election with the basis adjustment rules of section 48 (q). The lessee subject to a section 48 (d) election will ratably include 50 percent of the investment credit in his gross income over the shortest recovery period available under the accelerated cost recovery system instead of reducing the basis of his property by 50 percent of the credit. Such lessee will include the ratable portion of the entire credit regardless of its limitation by the amount of tax under section 38 (c) (or, in the case of taxable years beginning on or before December 31, 1983, section 46 (a) (3)). If the investment tax credit recapture rules are triggered, causing a recapture of the unused credit, and adjustment will be made to the lessee's gross income for any discrepancies

between the total amount included in gross income and the total credit allowed after recapture.

Section 1.48–4 (p) provides that a lessees may make an election (pursuant to section 48 (d) (5) (A)) to take a reduced credit in lieu of the ratable inclusions in income, and provides for election and revocation rules similar to the rules in § 1.48–7 (i).

Section 48(q)(6) [7] provides special rules for the basis reduction where the investment tax credit has been determined with respect to a qualified film under section 48(k). In such a case, there is a two-step reduction in lieu of the general basis reduction under section 48(q)(1). First, to the extent that the credit is determined with respect to residuals and participations (as defined in section 48(k)(5)(B)), any deduction allowable with respect to those amounts is to be reduced by 50 percent of the credit so determined. Second, the basis of the taxpayer's ownership interest (as defined in section 48(k)(1)(C)), is to be reduced by the excess of 50 percent of the amount of the credit determined under section 48(k) over the amount of the reduction in deductions attributable to the credit determined with respect to residuals and participations. Proposed § 1.48–7(k) sets forth the basis reduction rules applicable to investment tax credits determined with respect to qualified films and provides special rules for their operation.

Section 1.196–1 provides rules with respect to the deduction allowed by section 196 for any investment tax credit (to the extent attributable to property the basis of which was reduced as a result of the credit) not allowed as a credit either because the carryover period expired or because the taxpayer died or ceased to exist before the carryover period expired.

The rules provided by the proposed regulations are generally effective for and applicable to periods beginning after December 31, 1982, as provided in § 1.48–7(m). Section 1.48–7(m)(2) sets forth the transition rules.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, DC 20503. The Internal Revenue Service requests that persons submitting comments to OMB on these requirements also send copies of those comments to the Service.

Special Analyses

The Commissioner of Internal Revenue has determined that these proposed regulations are not major regulations subject to review under Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required.

The Commissioner of Internal Revenue has concluded that these proposed regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations are regulations not subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Drafting Information

The principal author of these proposed regulations is Gail H. Morse, formerly of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations both on matters of substance and style.

List of Subjects

26 CFR 1.0–1 through 1.58–8

Income taxes, Tax liability, Tax rates, Credits.

26 CFR 1.61–1–1 through 1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

26 CFR 1.301–1 through 1.385–6

Income taxes, Corporations, Corporate distributions, Corporate adjustments, Reorganizations.

26 CFR 1.701–1 through 1.771–1

Income taxes, Partnerships.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

PART 1—[AMENDED]

Paragraph 1. The authority for Part 1 is amended by adding the following citations:

Authority: 26 U.S.C. 7805. * * * § 1.48–4(n) is also issued under 26 U.S.C. 48(d)(5). * * * § 1.196–1 is also issued under 26 U.S.C. 196.

Par. 2. Section 1.48–4 is amended by adding new paragraphs (n), (o), and (p) to read as follows:

§ 1.48–4 Election of lessor of new section 38 property to treat lessee as purchaser.

* * * * *

(n) *Adjustment to lessee's income*—(1) *In general.* If a lessor of new section 38 property makes a valid election under section 48(d) with respect to such property, section 48(d) (except paragraph (4) thereof) and § 1.48–7 (except paragraphs (l and (m) thereof) shall not apply. Thus, the lessor is not required under section 48(q) to reduce the basis of such property. However, if such an election is made, the lessee shall include ratably in gross income, over the shortest recovery period which could be applicable under section 168 with respect to the property, an amount equal to 50 percent of the amount of the credit allowable under section 38 with respect to such property. For purposes of this paragraph (n), the amount of the credit allowable is determined by multiplying the qualified investment (as defined in section 46(c)) with respect to such property by the percentage specified in section 46(a) (section 46(a)(2) in the case of taxable years beginning on or before December 31, 1983) for such property, without regard to the limitation based on tax which, under section 38(c) (section 46(a)(3) in the case of taxable years beginning on or before December 31, 1983), may limit the amount of credit the lessee may take into account in any one year.

(2) *Adjustments as a result of an early disposition, etc.* (i) Except as provided in paragraph (n)(2)(iii) of this section, if section 47 requires an increase in the lessee's tax or a reduction in the carryback or carryover of an unused credit as a result of an early disposition, etc., of leased property for which an election had been made under section 48(d), the lessee's gross income shall be reduced by an amount equal to the excess (if any) of the total increases in gross income previously made under paragraph (n)(1) of this section over 50 percent of the portion of the credit that is not recaptured for the taxable year in which the early disposition, etc., occurred.

(ii) If the total increases in gross income of the lessee previously made under paragraph (n)(1) of this section are less than 50 percent of the credit that is not recaptured for the taxable year in which the early disposition, etc., occurred, the lessee shall include the difference in income in the year of disposition.

(iii) If, after the event which caused section 47 to apply, the lessee continues the use of the property in a trade or business or in the production of income, the amount described in paragraph (n)(2) (i) or (ii) of this section shall be taken into account ratably over the remaining portion of the recovery period described in paragraph (n)(1) of this section.

(iv) If paragraph (n)(2)(iii) of this section applies, and if, prior to the expiration of the recovery period described in paragraph (n)(1) of this section, the lease is terminated other than by purchase of the property by the lessee, any deduction allowable or inclusion necessitated under this paragraph not previously taken into account shall be taken into account for the taxable year in which the lease is terminated. In the case of a purchase of the property by the lessee, see paragraph (b) of § 1.48–7.

(3) *Effective dates.* The effective dates described in paragraph (m) of § 1.48–7 (relating to adjustment to basis) shall apply to this paragraph.

(4) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). Corporation X is engaged in the business of manufacturing and leasing new equipment. X constructs a machine at a cost of $20,000, which Corporation Y, a calendar year taxpayer, leases from X and places in service on July 1, 1983. The machine is 5-year recovery property. The fair market value of the machine on the date possession is transferred to Y is $25,000. If X elects to treat Y as the purchaser of the machine under this section, Y's investment credit determined under section 46(a) for 1983 is $2,500 (10 percent of $25,000). Under paragraph (n) of this section, Y's increase in gross income for each of the five years beginning with 1983 will be $250 ($1,250/5-year recovery period).

Example (2). The facts are the same as in example (1) except that Y disposes of its interest in the lease on January 1, 1985, and that there is an increase in Y's tax for 1985 under section 47(a)(1) in the amount of $2,000 (80 percent of $2,500). The amount of $250 (fifty percent of the unrecaptured credit) is compared to the amount previously included in income, $500 ($250 in 1983 + $250 in 1984), to determine whether Y is entitled to a reduction in income as a result of a possible over-inclusion in income under paragraph (n)(1) of this section. In this case, Y has over-included $250 ($500 − $250) and, as a result, will decrease its gross income in the year of disposition by $250.

Example (3). A lessor elects under section 48(d) to treat a lessee as making qualified rehabilitation expenditures with respect to a qualified rehabilitated building in the amount of $100,000. The property subject to such expenditures is placed in service on March 1, 1984, generating an investment tax credit of $15,000 ($100,000 × 15%) and potential income inclusions of $1,000 a year for 15 years. Assuming the lessee is a calendar year taxpayer, if the property were to be disposed of on June 1, 1985, the lessee would be entitled to a credit that is not recaptured of $3,000 ($15,000 × 20%) but would have included only $1,000 in income for 1984. In this case the lessee has under-included $2,000 ($3,000 − $1,000) and will increase gross income by such amount in the year of disposition (*i.e.*, 1985).

(o) *Special rule for qualified rehabilitated buildings.* In the case of a credit determined under section 46(a) (section 46(a)(2) in the case of taxable years beginning on or before December 31, 1983) for any qualified rehabilitation expenditure in connection with a qualified rehabilitated building other than a certified historic structure, paragraph (n) of this section shall be applied by substituting the phrase "100 percent of" for the phrase "50 percent of".

(p) *Lessee's election for a reduction in credit in lieu of adjustment to lessee's income*—(1) *In general.* An election may be made by the lessee not to have the rules of paragraph (n) of this section apply with respect to so much of the credit determined under section 46(a) (section 46(a)(2) in the case of taxable years beginning on or before December 31, 1983) as is attributable to the regular percentage. The election is made on a property-by-property basis. In the case of such an election, the amount of the investment credit with respect to the regular percentage shall be determined under paragraph (p)(2) of this section. A separate election must be made for each taxable year in which the reduced regular credit is elected. In the case of a partnership, S corporation, trust, or estate, the election shall be made by the partnership, S corporation, trust, or estate.

(2) *Reduction in credit.* In the case of any property for which an election under this paragraph has been made, the investment credit shall be determined as follows:

(i) The regular percentage shall be—

(A) 8 percent in the case of recovery property other than 3-year recovery property (RRB replacement property under section 168(f)(3)(B) shall be treated as property which is other than 3-year property), or

(B) 4 percent in the case of recovery property which is 3-year property.

(ii) For purposes of applying the regular percentage in paragraph (p)(2)(i) of this section, the applicable percentage under subsection (c) or (d) of section 46 shall be deemed to be 100 percent.

(3) *Time and manner of making the election.* The election specified in paragraph (p)(1) of this section shall be made by attaching a statement to the first income tax return for the taxable year for which the election is made (whether or not the return is timely) or to an amended return filed within the time prescribed by law (including extensions) for filing the return for such taxable year. For purposes of this paragraph (p), the term "income tax return for the taxable year for which the election is made" with respect to any property is the tax return for the taxable year in which such property is placed in service, or in the case of property to which an election under section 46(d) (relating to qualified progress expenditures) applies, the appropriate return is the return for the first taxable year which includes a period after December 31, 1982, for which qualified progress expenditures were taken into account with respect to such property. Except as otherwise provided in the return or instructions accompanying the return for the taxable year, the statement shall—

(i) Contain the name, address, and taxpayer identification number of the electing lessee,

(ii) Identify the election by indicating that the election is being made under sections 48(d)(5)(A) and 48(q)(4) of the Code,

(iii) Specify that the election is being made by the lessee of new section 38 property where the lessor of such property has made a valid election under section 48(d) to treat such lessee as the purchaser of the property for purposes of the section 38 credit, and

(iv) Specify the property to which the election is to apply.

The election to claim a reduced credit in lieu of increasing gross income is revocable only with the consent of the Commissioner.

(4) *Revocation.* Any election under section 48(q)(4), and any specification contained in such election, may be revoked only with the consent of the Commissioner. Such consent will be granted only in extraordinary circumstances. Requests for consent must be filed with the Commissioner of Internal Revenue, Washington, DC 20224. The request shall include the name, address, and taxpayer identification number of the lessee and shall be signed by the taxpayer or his duly authorized representative. The

request shall set forth the following information:

(i) The taxable year for which the election was made,

(ii) The Code sections applicable to the revocation (sections 48(d)(5)(A) and 48(q)(4)),

(iii) The property subject to the election for which the renovation is requested, and

(iv) The reasons why the revocation is sought.

Par. 3. Section 1.48-7 is revised to read as follows:

§ 1.48-7 Adjustment to basis.

(a) *Reduction of basis*—(1) *In general.* Under section 48(q)(l), except as provided in this section, the basis of section 38 property shall be reduced by 50 percent of the amount of the credit determined under section 46(a) (section 46(a)(2) in the case of taxable years beginning on or before December 31, 1983) with respect to such property. The reduction in basis shall be made in the year in which the credit is allowable. The basis of such property must be reduced by 50 percent of the credit determined under section 46(a) (or formerly under section 46(a)(2)) even though the limitation based on the amount of tax under section 38(c) (or formerly under section 46(a)(3)) reduces the amount of the credit allowed by section 38 for the taxable year in which the property is placed in service. The reduction in basis of section 38 property shall be taken into account for all purposes of Subtitle A of the Code, except in computing (or recomputing in the case of early disposition, etc.) the qualified investment with respect to such property.

(2) *Special rules.* For purposes of applying paragraph (a)(l) of this section—

(i) If, under section 48(d), the lessor of new section 38 property makes a valid election to treat the lessee as having purchased such property for purposes of the credit allowed by section 38, the basis of such property shall not be reduced.

(ii) If property is used section 38 property and if the cost, or any part thereof, of such property is not, because of the application of the dollar limitation on the cost of used section 38 property, taken into account in computing qualified investment by the person who placed such property in service or by a person to whom the cost of such property was apportioned, no reduction shall be made to the basis of such property to the extent such cost, or any part thereof, is not so taken into account.

(iii) In the case of used section 38 property within a particular class of recovery property the cost of which is apportioned by an estate or trust, if any part of such cost is not taken into account by the beneficiary in computing qualified investment under section 46 (c) (as a result of the dollar limitation in section 48 (c)), the estate or trust shall choose, to the extent such cost is not taken into account, the item (or items) of used section 38 property, within such class of recovery property, with respect to which no reduction in basis shall be made.

(iv) The basis of section 38 property that is disposed of or otherwise ceases to be section 38 property in the taxable year in which it is placed in service (except where section 47 (b) applies) shall not be reduced.

(3) *Examples.* This paragraph may be illustrated by the following examples:

Example (1). (i) X Corporation, which makes its return on the basis of a calendar year, acquires and places in service on January 2, 1983, an item of new section 38 property with a basis of $15,000 and a recovery period of 5 years. The qualified investment with respect to such property is $15,000 ($15,000 x 100 percent applicable percentage). For the taxable year 1983, the tax liability for X Corporation is $2,000. The corporation is allowed a credit of $1,500 (10 percent of $15,000) against its tax liability of $2,000.

(ii) Under section 48 (q) (1) the basis of the property, $15,000, is reduced by $750 (50 percent of $1,500) for an adjusted basis of $14,250 (for purposes of computing cost recovery deductions, the unadjusted basis is also reduced to $14,500).

Example (2). (i) The facts are the same as in example (1) except that for the taxable year 1983 the tax liability of X Corporation is $500. The credit to X Corporation, allowed by section 38, is limited to $500. The excess of $1,000 ($1,500 earned minus $500 limitation) is an investment credit carryover.

(ii) Under section 48 (q) (1), the basis of the property is reduced to $14,250, as in example (1), notwithstanding the limitation on the allowable credit.

Example (3). (i) X Corporation acquires and places in service on January 2, 1983, an item of new section 38 property with a cost of $26,000 and a recovery period of 5 years. X Corporation makes a valid election under section 179 to expense $5,000 of the cost of the asset. The cost of the asset for purposes of the investment credit is $21,000 ($26,000–$5,000) generating a credit of $2,100 (10 percent of $21,000 qualified investment)

(ii) Under section 48 (q) (1) the basis of the asset, $21,000 ($26,000–$5,000), is reduced by $1,050 (50 percent of $2,100) to $19,950.

Example (4). (i) X Corporation acquires and places in service on January 2, 1983, used assets nos. 1, 2, and 3 which qualify as used section 38 property. Each asset has a cost of $62,500 and a recovery period of 5 years. X Corporation selects the $62,500 cost of asset no. 1 and the $62,500 cost of asset no. 2 to be taken into account in computing an investment credit of $6,250 for each asset (10 percent of $62,500 qualified investment).

(ii) Under section 48 (q) (1), the basis of asset no. 1 is reduced to $59,375 ($62,500 minus 50 percent of $6,250). The basis of asset no. 2 is similarly reduced to $59,375 ($62,500 minus 50 percent of $6,250). The basis of asset no. 3 is not reduced.

Example (5). (i) X Corporation acquires and places in service on January 2, 1983, used assets nos. 1, 2, and 3 which qualify as used section 38 property. Each asset has a cost of $60,000 and a cost recovery period of 5 years. X Corporation selects the $60,000 cost of asset no. 1, the $60,000 cost of asset no. 2 and $5,000 of the cost of asset no. 3 to be taken into account in computing a total investment credit of $12,500 (10 percent of $60,000 qualified investment for assets nos. 1 and 2 plus 10 percent of $5,000 qualified investment for asset no. 3).

(ii) Under section 48 (q) (1), the basis of assets no. 1 and 2 is reduced to $57,000 each ($60,000–$3,000) and the basis of asset no. 3 is reduced to $59,750 ($60,000–$250.

Example (6). (i) XYZ Trust, which files its return on a calendar year basis, operates a manufacturing business. M. M acquires and places in service on January 2, 1983, five used assets which qualify as used section 38 property. The cost and the cost recovery period of each asset are as follows:

Asset No.	Cost	Cost recovery period (years)
1	$95,000	5
2	$12,000	5
3	$15,000	3
4	$ 6,000	3
5	$ 3,000	3

XYZ Trust has two current income beneficiaries, A and B. Forty percent of the trust income is allocable to A, 40 percent to B and 20 percent to XYZ Trust. The trust selects the $95,000 cost of asset no. 1, the $12,000 cost of asset no. 2, the $15,000 cost of asset no. 3 and $3,000 of the cost of asset no. 4 to be apportioned among the trust and beneficiaries. Under § 1.48-6, the total cost of the used section 38 property selected is apportioned as follows:

Cost recovery category	5 year recovery property	3 year recovery property
Total cost	$107,000	$18,000
Beneficiary A (.4)	42,800	7,200
Beneficiary B (.4)	42,800	7,200
XYZ Trust (.2)	21,400	3,600

Assume beneficiaries A and B did not place in service during their taxable years ending December 31, 1983, any section 38 property and that they did not own any interests in other trusts, estates, partnerships or S corporations. Under § 1.48-6, the investment credit applicable to A, B, and XYZ Trust is as follows:

	Apportioned asset cost	Applicable percentage	Qualified investment	Section 46(a)(2) credit
Beneficiary A:				
5 yr property	$42,800	100	$42,800	$4,280
3 yr property	7,200	60	4,320	432
Total				4,712
Beneficiary B:				
5 yr property	42,800	100	42,800	4,280
3 yr property	7,200	60	4,320	432
Total				4,712
XYZ Trust:				
5 yr property	21,400	100	21,400	2,140
3 yr property	3,600	60	2,160	216
Total				2,356

(ii) Under section 48 (q) (1), the basis of each asset (except no. 5) is reduced by 50 percent of the credit determined under section 46 (a) (2) as follows:

Asset No.	Basis before reduction	Reduction in basis	Basis after reduction
1	$95,000	50% of $9,500	$90,250
2	12,000	50% of $1,200	11,400
3	15,000	50% of $900	14,550
4	6,000	50% of $180	5,910
5	3,000	None	3,000

Example (7). (i) The facts are the same as in example (6) except that beneficiary A acquired and placed in service on June 1, 1983, in his individual proprietorship, used asset no. 6 with a cost of $81,000 and a cost recovery period of 5 years. In computing his investment credit, beneficiary A selects the $81,000 cost of asset no. 6, the $42,800 cost of used 5 year property apportioned to him by XYZ Trust, and $1,200 of the cost of 3 year property apportioned to him by XYZ Trust. Under § 1.48–6, A computes his investment credit as follows:

	Asset cost	Applicable percentage	Qualified investment	Section 46(a)(2) credit
Proprietorship: 5 yr property	$81,000	100	$81,000	$8,100
Apportioned by XYZ Trust:				
5 yr property	42,800	100	42,800	4,280
3 yr property	1,200	60	720	72
Total				12,452

(ii) Since only $12,000 of the $18,000 cost of used 3 year recovery property apportioned by XYZ Trust was taken into account by A, B, and XYZ Trust in computing their credit under section 46(a)(2), only 50 percent of the credit determined on a cost of $12,000 will reduce the basis of the 3 year recovery property. Under paragraph (a)(2)(iii) of this section, XYZ Trust must choose an item of property in the 3 year recovery property category, $6,000 of the basis of which is not subject to reduction. Therefore, XYZ Trust chooses to reduce the basis of asset no. 3 by 50 percent of the credit determined on a cost of $9,000 (in lieu of the $15,000 previously selected). The basis of each asset is reduced as follows:

Asset No.	Basis before reduction	Reduction in basis	Basis after reduction
1	$95,000	50% of $9,500	$90,250
2	12,000	50% of $1,200	11,400
3	15,000	50% of $540	14,730
4	6,000	50% of $180	5,900
5	3,000	None	3,000

(iii) The basis of asset no. 6 in the hands of A is reduced to $76,950 ($81,000 minus 50 percent of $8,100).

Example (8). (i) ABC Partnership, which makes its return on the basis of a calendar year, acquires and places in service on January 2, 1983, five used assets which qualify as used section 38 property. The cost and the cost recovery period of each asset are as follows:

Asset No.	Cost	Cost recovery period (years)
1	$95,000	5
2	12,000	5
3	15,000	3
4	6,000	3
5	3,000	3

Partners A, B, and C share the profits and the losses of Partnership ABC in the ratio of 50 percent, 30 percent, and 20 percent, respectively. ABC Partnership selects the $95,000 cost of asset no. 1, the $12,000 cost of asset no. 2, the $15,000 cost of asset no. 3, and $3,000 of the cost of asset no. 4 to be taken into account by its members in computing qualified investment. Under § 1.46–3(f)(2), each partner's share of the cost of the partnership-selected used section 38 property is allocated as follows:

Asset No.	Cost recovery period (years)	Cost	Partner's share		
			A (50%)	B (30%)	C (20%)
1	5	$95,000	$47,500	$28,500	$19,000
2	5	12,000	6,000	3,600	2,400
3	3	15,000	7,500	4,500	3,000
4	3	3,000	1,500	900	600

Each partner makes his return on the basis of the calendar year. Assume that partners A, B, and C did not place in service during their taxable years ending December 31, 1983, any section 38 property and that the partners did not own any interests in other partnerships, S corporations, trusts or estates. Under section 46(c), each partner computes his qualified investment and credit as follows:

Asset No.	Share of cost	Applicable percentage	Qualified investment	Section 46(a)(2) credit
Partner A:				
1	$47,500	100	$47,500	$4,750
2	6,000	100	6,000	600
3	7,500	60	4,500	450
4	1,500	60	900	90
Total				5,890
Partner B:				
1	$28,500	100	28,500	2,850
2	3,600	100	3,600	360
3	4,500	60	2,700	270
4	900	60	540	54
Total				3,534
Partner C:				
1	19,000	100	19,000	1,900
2	2,400	100	2,400	240
3	3,000	60	1,800	180
4	600	60	360	36
Total				2,356

(ii) Under section 48(q)(1), the basis of each asset selected by the partnership is reduced as follows:

Asset No.	Basis before reduction	Reduction in basis	Basis after reduction
1	$95,000	50% of $9,500	$90,250
2	12,000	50 % of $1,200	11,400
3	15,000	50% of $900	14,550
4	6,000	50% of $180	5,910
5	3,000	None	3,000

(iii) Each partner will reduce the basis in his interest in the partnership as described in example (1) of paragraph (c)(2) of this section.

Example (9). (i) The facts are the same as in example (8) except that partner A acquired and placed in service on June 1, 1983, in his individual proprietorship, used asset no. 6 with a cost of $63,500 and a cost recovery period of 5 years. Partner A selects the $63,500 cost of asset no. 6, his $47,500 share of asset no. 1, his $6,000 share of asset no. 2, his $7,500 share of asset no. 3, and $500 of his share of the cost of asset no. 4, to be taken into account in determining his qualified investment under section 46(c). His credit under section 46(a)(2) is computed as follows:

	Asset cost	Applicable percentage	Qualified investment	Section 46(a)(2) credit
Proprietorship No. 6	$63,500	100	$63,500	6,350
Share from ABC partnership:				
No. 1	47,500	100	47,500	4,750
No. 2	6,000	100	6,000	600
No. 3	7,500	60	4,500	450
No. 4	500	60	300	30
Total				12,180

(ii) Under section 48(q)(1) the basis of each asset selected by the partnership is reduced as follows:

Asset No.	Basis before reduction	Reduction in basis	Basis after reduction
1	$95,000	50% of $9,500	$90,250
2	12,000	50% of $1,200	11,400
3	15,000	50% of $900	14,550
4	6,000	50% of $120	5,940
5	3,000	None	3,000

(iii) The basis of asset no. 6 in the hands of A is reduced to $60,325 ($63,500) minus 50 percent of $6,350).

(iv) Partner A will reduce the basis in his interest in the ABC partnership as described

in example (2) of paragraph (c)(2) of this section.

(b) *Purchase of leased property by lessee treated as purchaser.* If a lessor of new section 38 property makes a valid election under section 48(d) to treat the lessee as having purchased such property for purposes of the investment credit and if such lessee at a later date actually purchases such property, the lessee-purchases shall continue the ratable inclusion in income under § 1.48–4 (n) and (o) and continue to be subject to the rules in such section with respect to the property purchased from the lessor.

(c) *Reduction in the basis of a partner's interest in a partnership*—(1) *In general.* In the case of a reduction in the basis of section 38 property by a partnership under section 48 (q)(1) and paragraph (a) of this section resulting from the credit determined by each partner under § 1.46–3(f) with respect to such property, there shall be a corresponding reduction in the basis of each partner's interest in the partnership equal to 50 percent of the credit determined under section 46(a) (section 46(a)(2) in the case of taxable years beginning on or before December 31, 1983) and § 1.46–3(f) with respect to such property. Such decrease in the basis of each partner's interest in the partnership shall be taken into account for all purposes of subtitle A of the Code.

(2) *Examples.* The provisions of this paragraph (c) may be illustrated by the following examples:

Example (1). Partners A, B, and C in example (8) of paragraph (a)(3) of this section will reduce the bases of their interests in the ABC partnership as follows: partner A by $2,945 (.5 × $5,890), partner B by $1,767 (.5 × $3,534), and partner C by $1,178 (.5 × $2,356).

Example (2). Partner A in example (9) of paragraph (a)(3) of this section will reduce the basis of his interest in the ABC partnership by $2,915 (.5 × $5,830).

(d) *Reduction in the basis of stock in an S corporation.*—In the case of a reduction in the basis of section 38 property by an S corporation under section 48(q)(1) and paragraph (a) of this section resulting from the credit determined by each shareholder (see sections 1366 and 1377(a)(1)) with respect to such property, there shall be a corresponding decrease in the basis of such shareholders' stock in the S corporation (see section 1367(a)(2)(D)) and to the S corporation's accumulated adjustments account (see section 1368(e)(1)(A)) equal to 50 percent of the credit determined with respect to such property. The decrease in the basis of each shareholder's stock in the S corporation shall be taken into account for all purposes of subtitle A of the Code.

(e) *Increase in basis on account of early disposition, etc.*—(1) *In general.* If, as a result of an early disposition, etc., during any taxable year, there is a recapture amount determined with respect to any section 38 property, the basis of which was reduced under paragraph (a) or (b) of this section, the basis of such property shall be increased by 50 percent of the recapture amount. For purposes of this paragraph, the term "recapture amount" means any increase in tax or adjustments in carrybacks or carryovers determined under section 47. The increase in basis shall be in an amount equal to 50 percent of the sum of the portion of such increase in tax and the portion of such adjustment in carrybacks or carryovers attributable to such property. See paragraph (a)(2) of this section for rules indicating when basis is not reduced under paragraph (a) of this section. This increase in basis shall be made immediately before the event which causes section 47 to apply, and such increase in basis shall be taken into account for all purposes of Subtitle A of the Code. If, after the event which causes section 47 to apply, the taxpayer continues the use of the recovery property in a trade or business or in the production of income, the increase in basis shall be considered a redetermination of the unadjusted basis of such property for purposes of section 168(d)(1)(B)(ii) and shall be taken into account in computing the cost recovery deductions with respect to such property under principles consistent with that section and the regulations thereunder. If the property in the preceding sentence is property other than recovery property, the increase in basis under this section shall be taken into account in computing the allowances for depreciation under section 167 over the remaining useful life of the property. In determining depreciation allowances with respect to the property for periods after such increase in basis, appropriate adjustments shall be made, whenever necessary, so that the total depreciation allowances made during the remaining useful life of the property, plus the allownaces for the expired useful life, will equal or approximate the allowances which would have resulted if section 48(q) had not applied.

(2) *Examples.* The operation of this paragraph may be illustrated by the following examples:

Example (1). (i) The facts are the same as those in example (1) of paragraph (a)(3) of this section except that on June 15, 1984, X Corporation sold the property, causing section 47(a)(5) to apply. This gives rise to an increase in tax of $1,200 (80 percent of the $1,500 credit allowed).

(ii) Section 48(q)(2) requires that the basis of such property be increased immediately before the sale by the amount of $600 (50 percent of the increase in tax for the 1984 taxable year arising under section 47(a)(5)).

Example (2). (i) The facts are the same as in the previous example except that for taxable year 1983, X Corporation had a tax liability of only $500, with a resulting $1,000 unused credit carryover to 1984. Thus, there is an increase in tax of $400 (80% of the $500 credit allowed) and a reduction in the credit carryover from $1,000 to $200.

(ii) As in example (1) above, the basis of the property is increased under section 48(q)(2) by $600. Such amount is equal to 50 percent of the increase in tax and adjustment to the carryover under section 47(a)(5) and (b).

(f) *Increase in the basis of a partner's interest in a partnership upon early disposition, etc.*—(1) *Disposition or cessation in the hands of the partnership.* Where a partnership disposes of any partnership section 38 property (or if any partnership section 38 property otherwise ceases to be section 38 property in the hands of the partnership) before the close of the cost recovery period, causing the recapture rules of § 1.47–6(a)(1) of the basis restoration rules of paragraph (e) of this section to apply, and where the basis of each partner's interest in the partnership was reduced under paragraph (c) of this section with respect to that property, the basis of each partner's interest in the partnership shall be increased by 50 percent of the recapture amount determined with respect to such partner. The term "recapture amount" shall have the same meaning as in paragraph (e) of this section. The increase in basis of each partner's interest in the partnership shall be made immediately before the event which causes § 1.47–6 to apply, and such increase to basis shall be taken into account for all purposes of subtitle A of the Code.

(2) *Disposition of partner's interest.* Where a partner disposes of an interest in a partnership causing the recapture rules of § 1.47–6(a)(2) to apply and where the basis of such partner's interest in the partnership was reduced under paragraph (c) of this section, the basis of such partner's interest in the partnership shall be increased by 50 percent of the recapture amount determined with respect to that partner. The term "recapture amount" shall have the same meaning as in paragraph (e) of this section. The increase in the basis of the partner's interest in the partnership shall be made immediately before the event which causes § 1.47–6 to apply, and such increase to basis shall be

taken into account for all purposes of subtitle A of the Code.

(g) *Increase in the basis of stock in an S corporation upon early disposition, etc.—(1) Disposition or cessation in the hands of the S corporation.* Where an S corporation disposes of any section 38 property (or if any section 38 property otherwise ceases to be section 38 property in the hands of the S corporation) before the close of the cost recovery period, causing the recapture rules under section 47 and the basis restoration rules under paragraph (e) of this section to apply, and where the basis of each shareholder's stock in the S corporation and, where applicable, the S corporation's accumulated adjustments account were reduced under paragraph (d) of this section with respect to that property, the basis of each shareholder's stock in the S corporation as well as the S corporation's accumulated adjustments account shall be increased by 50 percent of the recapture amount determined with respect to such shareholder. The term "recapture amount" shall have the same meaning as in paragraph (e) of this section. The increase in basis of each shareholder's stock in the S corporation and the increase to the S corporation's accumulated adjustments account shall be made immediately before the event which causes the recapture rules under section 47 to apply. The increase in basis of each shareholder's stock in the S corporation shall be taken into account for all purposes of subtitle A of the Code.

(2) *Disposition of shareholder's interest.* Where a shareholder disposes of an interest in an S corporation, causing the recapture rules under section 47 to apply, and where the basis of such shareholder's stock in the S corporation and, where applicable, the S corporation's accumulated adjustments account were reduced under paragraph (d) of this section, the basis of such shareholder's stock in the S corporation as well as the S corporation's accumulated adjustments account shall be increased by 50 percent of the recapture amount determined with respect to that shareholder. The term "recapture amount" shall have the same meaning as in paragraph (e) of this section. The increase in the basis of the shareholder's stock in the S corporation and the increase to the S corporation's accumulated adjustments account shall be made immediately before the event which causes the recapture rules under section 47 to apply. The increase in the basis of the shareholder's stock in the S corporation shall be taken into account for all purposes of subtitle A of the Code.

(h) *Basis adjustment; special rule for qualified rehabilitated buildings.* For purposes of this section, in the case of a credit determined under section 46(a) (section 46(a)(2) in the case of taxable years beginning before December 31, 1983) for any qualified rehabilitation expenditure in connection with a qualified rehabilitated building other than a certified historic structure, the increase in basis of such property which would (but for this paragraph) result from such expenditure shall be reduced by 100 percent of the credit so determined. Accordingly, the rules of paragraphs (a), (b), (c), and (d) of this section shall be applied to qualified rehabilitation expenditures in connection with a qualified rehabilitated building other than a certified historic structure by substituting the phrase "100 percent of" in lieu of the phrase "50 percent of".

(i) *Election for reduction in credit in lieu of basis adjustment*—(1) *In general.* An election may be made not be have the rules in paragraph (a) of this section apply with respect to so much of the credit determined under section 46(a) (section 46(a)(2) in the case of taxable years beginning on or before December 31, 1983) as is attributable to the regular percentage set forth in section 46(b)(1) (section 46(a)(2)(B) in the case of taxable years beginning on or before December 31, 1983). The election is made on a property-by-property basis. In the case of such an election, the amount of the investment credit with respect to the regular percentage shall be determined under paragraph (i)(2) of this section. In the case of a partnership, S corporation, trust, or estate, the election shall be made by the partnership, S corporation, trust, or estate.

(2) *Reduction in credit.* In the case of any property for which an election under this paragraph has been made, the investment credit shall be determined as follows:

(i) The regular percentage shall be—

(A) 8 percent in the case of recovery property other than 3 year property (RRB replacement property under section 168(f)(3)(B) shall be treated as property which is other than 3 year property), or

(B) 4 percent in the case of recovery property which is 3 year property.

(ii) For purposes of applying the regular percentage in paragraph (i)(2)(i) of this section, the applicable percentage under subsection (c) or (d) of section 46 shall be deemed to be 100 percent.

(3) *Time and manner of making the election.* The election specified in paragraph (i)(1) of this section shall be made by attaching a statement to the first income tax return for the taxable year for which the election is made (whether or not the return is timely), or to an amended return filed within the time prescribed by law (including extensions) for filing the return for such taxable year. For purposes of this paragraph (i), the term "income tax return for the taxable year for which the election is made" with respect to any property is the tax return for the taxable year in which such property is placed in service, or in the case of property to which an election under section 46(d) (relating to qualified progress expenditures) applies, the appropriate return is the return for the first taxable year which includes a period after December 31, 1982, for which qualified progress expenditures were taken into account with respect to such property. Except as otherwise provided in the return or instructions accompanying the return for the taxable year, the statement shall—

(i) Contain the name, address and taxpayer identification number of the electing taxpayer.

(ii) Identify the election, by indicating that the election is being made under section 48(q)(4) of the Code, and

(iii) Specify the property to which the election is to apply.

The election to claim a reduced credit in lieu of reducing basis with respect to recovery property is revocable only with the consent of the Commissioner. In the absence of revocation, the election shall be binding for the taxable year for which it is made and for all subsequent taxable years.

(4) *Revocation.* Any election under section 48(q)(4), and any specification contained in such election, may be revoked only with the consent of the Commissioner. Such consent will be granted only in extraordinary circumstances. Requests for consent must be filed with the Commissioner of Internal Revenue, Washington, DC 20224. The request shall include the name, address, and taxpayer identification number of the taxpayer and shall be signed by the taxpayer or his duly authorized representative. The request shall set forth the following information:

(i) The taxable year for which the election was made,

(ii) The Code section applicable to the revocation (section 48(q)(4)),

(iii) The property subject to the election for which the revocation is requested, and

(iv) The reasons why the revocation is sought.

(j) *Recapture of reduction*—(1) *In general.* For purposes of sections 1245 and 1250, the basis reduction amount under this section shall be treated as a deduction allowed for depreciation. For purposes of section 1250(b), the determination of what would have been the depreciation adjustments under the straight line method shall be made as if there had been no reduction under this section.

(2) *Early disposition, etc.* If paragraph (e) of this section applies, the basis reduction amount in paragraph (j)(1) of this section shall be decreased by 50 percent of the recapture amount as defined in paragraph (e) of this section.

(k) *Special rules for qualified films*—(1) *In general.* If a credit is allowed under section 38 with respect to any qualified film (within the meaning of section 48(k)(1)(B)] section 48(q)(1) and paragraphs (a) through (j) and (l) of this section shall not apply to such credit and the rules of this paragraph (k) shall apply.

(2) *Applicable rules*—(i) Where a credit has been determined under section 48(k) with respect to a qualified film, any deduction allowed under chapter 1 of the Code with respect to "residuals" (as described in section 48(k)(5)(B)(v)] and "participations" (as described in section 48(k)(5)(B)(vi)), shall be reduced by 50 percent of the credit so determined, and

(ii) The basis of the taxpayer's ownership interest (within the meaning of section 48(k)(1)(C) and § 1.48-8(a)(4)) shall be reduced by the excess of—

(A) 50 percent of the credit determined under section 48(k) over,

(B) The amount of the reduction in paragraph (k)(2)(i) of this section with respect to the deduction applicable to residuals and participations.

The reduction in the basis of a taxpayer's ownership interest in a qualified film (under paragraph (k)(2)(ii)) shall be made in the year in which the credit is allowable and shall be taken into account for all purposes of subtitle A of the Code, except in computing the qualified investment with respect to such film.

(3) *Special rules applicable to the basis reduction of a taxpayer's ownership interest in a qualified film*—(i) *Certain lenders and guarantors.* With respect to lenders and guarantors of all or a portion of the funds used to produce or acquire a qualified film or a portion thereof that are regarded as having a depreciable interest in the film under § 1.48-8(a)(4)(iii), the basis of the ownership interest which must be reduced under this paragraph (k)(2)(ii) shall be the principal amount of the loan which was made or guaranteed. Consequently, such lenders and guarantors will reduce the basis of their ownership interest in the film as well as the principal amount of the loan which was made or guaranteed. That portion of each amount received in repayment of the loan principal which bears the same ratio to the amount repaid as the basis reduction amount of paragraph (k)(2)(ii) of this section bears to the total loan principal (prior to reduction under this paragraph (k)(3)) shall constitute income (see example (2)(b) in paragraph (k)(4) of this section). For purposes of the preceding sentence, where the loan principal exceeds the qualified United States production costs, the term "loan principal" refers to the portion of the loan equal to such costs, and any loan payments shall be treated first as a repayment of such costs.

(ii) *Partner's interest in the partnership*—In the case of a reduction in the basis of an ownership interest of a qualified film by a partnership under paragraph (k)(2)(ii) of this section resulting from a credit determined by each partner under section 48(k) and § 1.48-8(a)(4)(iv) with respect to the partnership's ownership interest in the qualified film, there shall be a corresponding reduction in the basis of each partner's interest in the partnership equal to 50 percent of that partner's share of the credit determined under section 48(k). Such decrease in the basis of each partner's interest in the partnership shall be taken into account for all purposes of subtitle A of the Code.

(iii) *S corporation shareholder's stock basis*—In the case of a reduction in the basis of an ownership interest of a qualified film by an S corporation under paragraph (k)(2)(ii) of this section resulting from a credit determined by each shareholder with respect to the S corporation's ownership interest in the qualified film (see sections 1366 and 1377(a)(1)) there shall be a corresponding reduction in the basis of each shareholder's stock in the S corporation (see section 1367(a)(2)(D)) and to the S corporation's accumulated adjustments account (see section 1368 (e)(1)(A)) equal to 50 percent of the credit determined under section 48(k). Such decrease in the basis of each shareholder's stock in the S corporation shall be taken into account for all purposes of Subtitle A of the Code.

(4) *Examples.* This paragraph (k) may be illustrated by the following examples:

Example (1). Production company P produces a new feature-length film M and incurs $150,000 in qualified United States production costs. Fifteen thousand dollars ($15,000) of such costs are attributable to residuals (as described in section 48(k)(5)(B)(v)), and $15,000 are attributable to participations (as described in section 48(k)(5)(B)(vi)), which are currently deductible. Under section 48(k), P is entitled to a credit of $10,000 (($150,000×66⅔%]× 10%) with respect to film M. Under section 48(q)(6)[7], P's deduction with respect to both the residuals and participations will be reduced by $500 each [{(15,000×66⅔ %]×10%)×50%]. Thus P may deduct $14,500 as residuals and $14,500 as participations with respect to film M. The basis of P's ownership interest in film M is also subject to reduction under section 48(g)(6)[7] as a result of the investment credit taken for such film. P will reduce its basis in its ownership interest by $4,000 (50 percent of the credit determined with respect to the qualified film minus the amount of the reduction of deductions for residuals and participations under section 48(q)(6)[7](A)].

Example (2). (i) P executes a production-distribution agreement with D, a motion picture distribution company, for P to produce a new feature-length motion picture. D agrees to provide the funds for the production by direct loans to P. The amounts borrowed by P would be repayable only out of net profits from the distribution of the picture. P assumes no liability for the repayment of any amount. In consideration for the sum advanced by D, P assigns to D the sole and exclusive right to rent, lease, exhibit, license and otherwise dispose of, or trade and deal in and with, the picture. Proceeds realized from the sale or distribution of the picture would first be used to reimburse D for amounts advanced. Any amount remaining following the reimbursement to D would be distributed 50 percent to D and 50 percent to P. For purposes of this example, neither a partnership nor a joint venture is assumed created. The total loan from D equals $150,000 and the total qualified United States production costs (as defined in section 48(k)(4)(B)) equal $100,000; no part of these costs is attributable to either residuals (as described in section 48(k)(5)(B)(v)) or participations (as described in section 48(k)(5)(B)(vi)).

(ii) Under § 1.48-8(a)(4)(iii), D has a depreciable interest in the picture for purposes of the investment tax credit in the amount of $100,000 because only D's capital is at risk. The credit determined under section 48(k) with respect to D's ownership interest in the film is $6,666.67 (($100,000×66⅔%)×10%). The basis reduction amount under section 48(6)[7] with respect to the credit is $3,333.33 ($6,666.67×50%). The basis of D's ownership interest for purposes of section 48(q)(6)(7), in accordance with paragraph (k)(3)(i) of this section, is the portion of the principal amount of the loan to P equal to the qualified U.S. production costs ($100,000). Consequently, the basis of D's ownership interest in the film is reduced to $96,666.67 ($100,000-$3,333.33). Thus 3,333.33/100,000 of every principal amount repaid to D on the loan (up to $100,000 of principal repaid) represents income to D.

Example (3). (i) A and B execute a partnersihp agreement under which B agrees to provide the funds for the production of a motion picture in return for a 50-percent interest in the net profits of the film. A agrees to provide his services and to supply the necessary talent to produce the film in exchange for the remaining 50-percent interest. Any lease, exhibition, license, or other disposition of the film is subject to the veto of either party. B provides $200,000 for the production of the film. One hundred and fifty thousand dollars ($150,000) of these costs are qualified United States production costs under section 48(k)(5) and none of the costs are attributable to either residuals (as described in section 48(k)(5)(B)(v)) or participations (as described in section 48(k)(5)(B)(vi)).

(ii) The AB partnership has a depreciable interest in the film. Under § 1.48-8(a)(4)(iv), the qualified investment will be apportioned among the partners on the basis of their percentage of capital at risk in the parntership. A has no capital at risk in the partnership and, therefore, is not entitled to any credit with respect to the film. B has supplied all the risk capital and, therefore, may claim a credit of $10,000 (($15,000×66⅔%)×10%). The basis of AB partnership's ownership interest in the film must be reduced under section 48(q)(6)[7] by 50 percent of the credit taken by B. Thus, the reduced basis of AB partnership's ownership interest in the film is $145,000 ($150,000-$5,000). In addition, pursuant to § 1.48-7(k)(3)(ii), B must reduce the basis of his interest in the AB partnership by $5,000, 50 percent of the credit determined with respect to the qualified film.

(l) *Special rule for reforestation expenditures.* In the case of a credit for qualified investment in section 38 property described in section 48(a)(1)(F), the amortizable basis of such property for purposes of section 194 shall be reduced by 50 percent of the credit.

(m) *Effective date rules*—(1) *In general.* This section is effective for—

(i) Property to which section 46(d) (relating to qualified progress expenditures) does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer on or after January 1, 1983, but only to the extent of the basis thereof attributable to the construction, reconstruction, or erection after 1982,

(ii) Property to which section 46(d) does not apply, acquired by the taxpayer and subsequently placed in service by the taxpayer after 1982, and

(iii) Property to which section 46(d) applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d) of section 46) with respect to qualified progress expenditures made after 1982.

(2) *Exception.* This section shall not apply to any property which—

(i) Was constructed, reconstructed, erected, or acquired pursuant to a contract which was entered into after August 13, 1981, and was, on July 1, 1982, and at all times thereafter, binding on the taxpayer,

(ii) Was placed in service after December 31, 1982, and before January 1, 1986,

(iii) With respect to which an election under section 168(f)(8)(A) (relating to the safe-harbor leasing provisions) is not in effect at any time, and

(iv) Is not public utility property described in section 167(l)(3)(A).

(3) *Special rules.* For special rules relating to integrated manufacturing facilities and historic structures, see section 205(c) of Pub. L. 97-430 (1982).

Par. 4. There is inserted after § 1.194-4 a new § 1.196-1 to read as follows:

§ 1.196-1 Deduction for certain unused investment credits.

(a) *In general.* Where the amount of the section 38 credit (determined under section 46(a)(2)) for any taxable year exceeds the limitation based on the amount of tax (determined under section 46(a)(3)) for such taxable year and the amount of such excess has not, after the application of 46(b), been allowed to the taxpayer as a credit under section 38 for any taxable year, an amount equal to 50 percent of such excess (to the extent attributable to property the basis of which was reduced under section 48(q)) not so allowed as a credit will be allowed as a deduction in the first taxable year following the last taxable year in which such excess could have been allowed as a credit under section 46(b).

(b) *Taxpayers dying or ceasing to exist*—

(1) *In general.* Except as provided in this paragraph, where the taxpayer dies or ceases to exist prior to the first taxable year following the last taxable year in which the excess credit (described in paragraph (a) of this section) could have been allowed as a credit under section 46(b), then 50 percent of such excess shall be allowed as a deduction to the taxpayer for the taxable year in which such death or cessation occurs.

(2) *Special rules.* (i) Where the taxpayer dies or ceases to exist prior to the end of the recovery period of section 38 property which was taken into account in computing the section 38 credit with respect to such property, and where the recapture rules of section 47 are applicable, 50 percent of the excess credit described in paragraph (a) of this section that is not required to be recaptured by section 47 shall be allowed as a deduction to the taxpayer for the taxable year in which such death or cessation occurs. The recaptured credit shall be subject to the basis adjustment rules of § 1.48-7 (c) or (d). For purposes of this paragraph, a taxpayer (other than an individual) ceases to exist when it no longer continues the active operation of or permanently terminates its trade or business.

(ii) In a case where the taxpayer is a corporation and such corporation ceases to exist, and transfers the assets of its trade or business to a corporation that is entitled to take into account the excess credit of the transferor corporation, the transferor corporation shall not be allowed a deduction for any excess section 38 credit under paragraph (b) of this section.

(c) *Qualified rehabilitated buildings.* In the case of any credit determined under section 46(a)(2) for any qualified rehabilitation expenditure in connection with a qualified rehabilitated building other than a certified historic structure, the rules of this section shall be applied by inserting the phrase" 100 percent of" where the the phrase "50 percent of" appears.

(d) *Effective date rules*—(1) *In general.* This section is effective for taxable years beginning before 1984 for—

(i) Property to which section 46(d) (relating to qualified progress expenditures) does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer on or after January 1, 1983, but only to the extent of the basis thereof attributable to the construction, reconstruction, or erection after 1982,

(ii) Property to which section 46(d) does not apply, acquired by the taxpayer and subsequently placed in service by the taxpayer after 1982, and

(iii) Property to which section 46(d) applies, but only to the extent of the qualified investment (as defined under subsections (c) and (d) of section 46) with respect to qualified progress expenditures made after 1982.

(2) *Exception.* This section shall not apply to any property which—

(i) Was constructed, reconstructed, erected, or acquired pursuant to a contract which was entered into after August 13, 1981, and was, on July 1, 1982, and at all times thereafter, binding on the taxpayer,

(ii) Was placed in service after December 31, 1982, and before January 1, 1986,

(iii) With respect to which an election under section 168(f)(8)(A) (relating to the safe-harbor leasing provisions) is not in effect at any time, and

(iv) Is not public utility property described in section 167(l)(3)(A).

(3) *Special rules.* For special rules relating to integrated manufacturing facilities and historic structures, see section 205(c) of Pub. L. 97-248, 96 Stat. 430 (1982).

Par. 5. Section 1.312-15 is amended by adding a new paragraph (a)(4) to read as follows:

§ 1.312-15 Effect of depreciation on earnings and profits.

(a) *Depreciation for taxable years beginning after June 30, 1972.* * * *

(4) *Basis adjustment under section 48(q).* In the case of property to which the basis adjustment rules of section 48(q) and § 1.48-7 apply, the allowance for depreciation (and amortization, if any) shall be computed without regard to such adjustment.

Par. 6. Section 1.705-1(a)(3)(ii) is revised to read as follows:

§ 1.705-1 Determination of basis of partner's interest.

(a) * * *

(3) * * *

(ii) Partnership expenditures which are not deductible in computing partnership taxable income or loss and which are not capital expenditures (see § 1.48-7(c), § 1.48-7(f), and § 1.48-7(k)(3)(ii) with respect to the necessary adjustment to reflect the investment tax credit).

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James I. Owens,

Acting Commissioner of Internal Revenue.

[FR Doc. 87-21629 Filed 9-18-87; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 1

[LR-135-86]

Mortality Table Used to Determine Exclusion for Deferred Payments of Life Insurance Proceeds

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the Federal Register, the Internal Revenue Service is issuing temporary regulations that prescribe the mortality table to be used in determining the extent to which deferred payments of life insurance proceeds are excluded from gross income. The text of the temporary regulations also serves as the comment document for this notice of proposed rulemaking.

DATES: Written comments and requests for a public hearing must be delivered or mailed by November 20, 1987. The regulations are proposed to be effective on October 23, 1986, and to apply to amounts received with respect to deaths occurring after October 22, 1986, in taxable years ending after October 22, 1986.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-135-86), Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Sharon L. Hall of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attention: CC:LR:T), (202) 566-3288 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations (designated by a "T" following the section citation) in the Rules and Regulations section of this issue of the Federal Register amend the Income Tax Regulations (26 CFR Part 1) to provide rules under sections 101(d) of the Internal Revenue Code of 1986, as amended by section 1001(b) of the Tax Reform Act of 1986 (100 Stat. 2387). This document proposes to adopt those temporary regulations as final regulations. Accordingly, the text of the temporary regulations serves as the comment document for this notice of proposed rulemaking. The preamble to the temporary regulations provides a discussion of the proposed and temporary rules.

For the text of the temporary regulations, see FR Doc. (T.D. 8161) published in the Rules and Regulations Section of this issue of the Federal Register.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required. Although this document is a notice of proposed rulemaking that solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Comments and Requests for A Public Hearing

Before these proposed regulations are adopted, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations is Sharon L. Hall of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of both substance and style.

List of Subjects in 26 CFR 1.61-1 through 1.281-4

Income taxes, Taxable income, Deductions, Exemptions.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

[FR Doc. 87-21712 Filed 9-18-87; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 505

Labor Standards on Projects or Productions Assisted by Grants From the National Endowments for the Arts and Humanities

AGENCY: Wage and Hour Division, ESA, Labor.

ACTION: Proposed rule.

SUMMARY: This is a proposal to revise existing regulations 29 CFR Part 505 to extend the labor standards provisions now applicable to professional performers and related or supporting professional personnel employed on projects funded by the National Endowment for the Arts to such performers and supporting personnel employed on projects funded by the National Endowment for the Humanities. Other revisions proposed include broadening the definition of "amateur" to include those performers

and supporting personnel who may receive reimbursement for expenses, simplification of the procedures for obtaining exceptions from the prevailing minimum compensation standards, and conforming the references to safety and health standards with currently applicable requirements.

DATE: Comments must be received on or before October 21, 1987.

ADDRESS: Written comments should be addressed to Paula V. Smith, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue NW., Washington, DC 20210. Commenters who wish to receive notification of receipt of comments are requested to include a self-addressed, stamped post card.

FOR FURTHER INFORMATION CONTACT: Herbert J. Cohen, Deputy Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523-8305 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Since issued in 1967, the existing regulations, 29 CFR Part 505, Labor Standards on Projects or Productions Assisted by Grants from the National Endowment for the Arts, have provided that the minimum compensation (including fringe benefits) set forth in collective bargaining agreements negotiated by ten national or international labor organizations or their local affiliates named in the regulations constitute the prevailing minimum compensation required to be paid under the Act to professional performers and related or supporting professional personnel employed on projects receiving financial assistance from the National Endowment for the Arts. Provisions are included to permit any professional performer, supporting personnel, or grant applicant to protest that determination and obtain a variation from the negotiated rates upon written application to the Administrator of the Wage and Hour Division.

Congress amended the National Foundation on the Arts and the Humanities Act of 1965 (NFAHA) in 1976 (Sec. 105, Pub. L. 94-462, 90 Stat. 1971; 20 U.S.C. 956(g)), to provide that professional performers and related or supporting professional personnel employed under Humanities grants would also be subject to prevailing minimum compensation standards. The Department published a regulatory proposal in the **Federal Register** on December 19, 1980 (45 FR 83914) to carry out the provisions of these amendments. However, that proposal was subsequently withdrawn from the Department's Semiannual Agenda of Regulations on October 28, 1982 (47 FR 48538).

On December 20, 1985, the Arts, Humanities, and Museums Amendments of 1985, Pub. L. 99-194, 99 Stat. 1332, were enacted which, among other things, directed the Secretary of Labor to prescribe prevailing minimum compensation standards for professional performers and related or supporting professional personnel employed on projects or productions assisted by grants from the National Endowment for the Humanities. These proposed revisions to 29 CFR Part 505 extend the existing prevailing minimum compensation standards now applicable to professional performers and related or supporting professional personnel employed on projects receiving financial assistance from the National Endowment for the Arts to such employees employed on projects receiving assistance from the National Endowment for the Humanities, and replace the 1980 regulatory proposal. Other revisions proposed would ease the administrative procedures and minimize burdens associated with obtaining approval to provide prevailing minimum compensation as an alternative to such determinations contained in the regulations. In this regard, the section in the current rule which sets forth a formal variance procedure has been replaced with a simplified process to permit interested parties to request an alternative determination of prevailing minimum compensation from the Wage and Hour Administrator at any time, in lieu of the compensation negotiated by the labor organizations named in the regulations, in connection with any grant application or approved grant. Pending a final decision on such a request, it is also proposed to provide that grantees may be required to set aside in an escrow account sufficient funds to cover the difference between the amount paid to employees and the amount otherwise required under the terms of the applicable collective bargaining agreement, or, alternatively, furnish a surety bond. It is also proposed that professional performers and related or supporting professional personnel performing activities which do not come within the jurisdiction of the named labor organizations shall be paid minimum compensation as determined by agreement between such personnel and the grantee.

In 1967, evidence available to the Department indicated that, at that time, the majority of persons employed in activities performed by professional performers and related or supporting professional personnel were covered by collective bargaining agreements between their employers and the labor organizations listed in § 505.3(a) of the regulations. The Department continues to believe this to be the case today. However, some comments received on the 1980 proposal suggested that this presumption may no longer be correct. Consequently, comments are invited on the presumption in § 505.3(a) of the regulations that the compensation negotiated by the named labor organizations accurately reflects prevailing compensation standards (i.e., that a majority of the professional performers and related or supporting professional personnel employed in activities that are similar to those performed by performers and related personnel employed under grants from the National Endowment for the Arts or the National Endowment for the Humanities are paid such compensation, by both for-profit and not-for-profit entities). Commenters are requested to provide specific information and supporting documentation of the actual rates being paid in the industry and the number of employees paid such rates to support their particular views on this point.

In addition, it is proposed to revise the definition of amateur to include those performers and supporting personnel who may receive reimbursement for expenses but who do not work for compensation, and to conform the references to safety and health standards with the currently applicable requirements.

Classification—Executive Order 12291

This rule is not a "major rule" under Executive Order 12291 on Federal Regulations because it is not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act

This rule, if promulgated, will have no "significant economic impact on a substantial number of small entities"

within the meaning of section 3(a) of the Regulatory Flexibility Act, Pub. L. 96-354, 91 Stat. 1164 (5 U.S.C. 605(b)). The Secretary of Labor has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. This conclusion is based on the fact that the number of affected small entities receiving grants under which professional performers and related or supporting professional personnel are employed subject to the prevailing minimum compensation requirements is not believed to be substantial.

Paperwork Reduction Act

The recordkeeping and information collection requirements that are included in this regulation are a restatement of requirements contained in 29 CFR Part 516 (Records to be Kept by Employers Under the Fair Labor Standards Act), which have been previously cleared by the Office of Management and Budget (OMB) under the Paperwork Reduction Act and assigned OMB control number 1215-0017.

This document was prepared under the direction and control of Paula V. Smith, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 505

Arts and crafts, Education, Foundations, Grant programs, Minimum wages, Occupational safety and health.

Accordingly, it is proposed to revise 29 CFR Part 505 as set forth below.

Signed at Washington, DC, on this 15th day of September 1987.

William E. Brock,

Secretary of Labor.

Fred W. Alvarez,

Assistant Secretary for Employment Standards.

Paula V. Smith,

Administrator, Wage and Hour Division.

1. 29 CFR Part 505 is revised as set forth below:

PART 505—LABOR STANDARDS ON PROJECTS OR PRODUCTIONS ASSISTED BY GRANTS FROM THE NATIONAL ENDOWMENTS FOR THE ARTS AND HUMANITIES

Sec.

505.1 Purpose and scope.
505.2 Definitions.
505.3 Prevailing minimum compensation.
505.4 Receipt of grant funds.
505.5 Adequate assurances.
505.6 Safety and health standards.
505.7 Failure to comply.

Authority: Sec. 5(j), Pub. L. 89-209, 79 Stat. 848 (20 U.S.C. 954(i)); sec. 7(g), Pub. L. 94-462, 90 Stat. 1971, as amended by Sec. 107(4), Pub. L. 99-194, 99 Stat. 1337 (20 U.S.C. 956(g)); Secretary's Order 9-83 (48 FR 35736) and Secretary's Order 6-84 (49 FR 32473).

§ 505.1 Purpose and scope.

(a) The regulations contained in this part set forth the procedures which are deemed necessary and appropriate to carry out the provisions of section 5(i) and section 7(g) of the National Foundation on the Arts and Humanities Act of 1965, as amended, 20 U.S.C. 954(i), 20 U.S.C. 956(g). As a condition to the receipt of any grant, the grantees must give adequate assurances that all professional performers and related to supporting professional personnel employed on projects or productions assisted by grants from the National Endowment for the Arts and the National Endowment for the Humanities shall receive not less than the prevailing minimum compensation as determined by the Secretary of Labor.

(b) Regulations and procedures relating to wages on construction projects as provided in section 5(j) and section 7(j) may be found in Parts 3 and 5 of this title.

(c) Standards of overtime compensation for laborers or mechanics may be found in the Contract Work Hours and Safety Standards Act, 76 Stat. 357, 40 U.S.C. 327 *et seq.* and Part 5 of this title.

§ 505.2 Definitions.

(a) The term "Act" means the National Foundation on the Arts and the Humanities Act of 1965, as amended, 79 Stat. 848, as amended, 20 U.S.C. 951 *et seq.*

(b) The term "Secretary" means the Secretary of Labor.

(c) The term "Administrator" means the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, or authorized representative, to whom is assigned the performance of functions of the Secretary pertaining to wages under the National Foundation on the Arts and the Humanities Act of 1965, as amended.

(d) The term "Assistant Secretary" means the Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, or authorized representative, to whom is assigned the performance of functions of the Secretary pertaining to safety and health under the National Foundation on the Arts and the Humanities Act of 1965, as amended.

(e) "Professional" in the phrase "professional performer and related or supporting professional personnel" shall include all those who work for compensation on a project or production which is assisted by a grant from the National Endowment for the Arts or the National Endowment for the Humanities regardless of whether paid out of grant funds. It shall not include those whose status is "amateur" because their engagement for performance or supporting work contemplates no compensation. Compensation does not include reimbursement of expenses (i.e., meals, costumes, make-up, etc.). The words "related or supporting . . . personnel" in the same phrase shall include all those whose work is related to the particular project or production such as musicians, stage hands, scenery designers, technicians, electricians and moving picture machine operators, as distinguished from those who operate a place for receiving an audience without reference to the particular project or production being exhibited, such as ushers, janitors, and those who sell and collect tickets. The phrase does not include laborers and mechanics employed by contractors or subcontractors on construction projects, whose compensation is regulated under section 5(j) and section 7(j) of the Act. The phrase "professional performers and related or supporting professional personnel" shall not include persons employed as regular faculty or staff of an educational institution primarily performing duties commonly associated with the teaching profession. It shall include persons employed by educational institutions primarily to engage in activities customarily performed by performing artists or by those who assist in the presentation of performances assisted by grants from the National Endowment for the Arts or the National Endowment for the Humanities.

§ 505.3 Prevailing minimum compensation.

In the absence of an alternative determination made by the Administrator under paragraph (b) of this section, and except as provided in paragraph (a)(2) of this section, the prevailing minimum compensation required to be paid under the Act to the various professional performers and related or supporting professional personnel employed on projects or productions assisted by grants from the National Endowment for the Arts and the National Endowment for the Humanities shall be the compensation (including fringe benefits) contained in collective bargaining agreements negotiated by the following national or international labor organizations or their local affiliates.

Actors' Equity Association.

Screen Actors Guild, Inc.
Screen Extras Guild, Inc.
American Guild of Musical Artists, Inc.
International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators.
American Federation of Musicians.
National Association of Broadcast Employees and Technicians.
American Federation of Television and Radio Artists.
International Brotherhood of Electrical Workers.
American Guild of Variety Artists.
Writers Guild.

(2) Professional performers and related or supporting professional personnel who are to perform activities which do not come within the jurisdiction of any collective bargaining agreement negotiated by the labor organizations named in paragraph (a)(1) of this section shall be paid minimum compensation as determined by agreement of the grant applicant or grantee and the personnel who will perform such activities or their representatives. Evidence of the agreement reached by the parties shall be submitted by the grant applicant to the grant agency, together with evidence of the prevailing minimum compensation for similar activities. If the parties do not agree on the minimum compensation to be paid to such personnel, the matter shall be referred to the Administrator of the Wage and Hour Division for final determination.

(b)(1) Interested parties, including grant applicants, grantees, professional performers or related or supporting professional personnel and their representatives, may at any time submit to the Administrator a request for a determination of prevailing minimum compensation. The Administrator will make a determination concerning each such request in accordance with paragraph (b)(4) of this section.

(2) Any request for a determination of prevailing minimum compensation shall include or be accompanied by information as to the locality or localities, the class or classes of professional performers or related or supporting professional personnel for the project or production in question, the names and addresses (to the extent known) of interested parties, and all available information relating to prevailing minimum compensation currently being paid to such persons or to persons employed in similar activities. No particular form is prescribed for submission of information under this section.

(3) If the information specified in paragraph (b)(2) of this section is not submitted with a request for an alternative determination of prevailing minimum compensation or is insufficient to permit a determination, the Administrator may deny the request or request additional information, at the Administrator's discretion. Pertinent information from any source may be considered by the Administrator in connection with any request.

(4) The Administrator will respond to a request for determination under this section within 30 days of receipt, by issuing a determination of alternative prevailing minimum compensation or denying the request or advising that additional time is necessary for a decision. If the Administrator determines from a preponderance of all relevant evidence obtained in connection with the request that the compensation provided for in the agreements negotiated by the labor organization set forth in paragraph (a) of this section does not prevail for any professional performer or related or supporting professional personnel employed on similar activities in the locality, the Administrator will issue a determination of the prevailing minimum compensation required to be paid under the Act to such persons. If the Administrator finds that the compensation provided for in the agreements negotiated by the labor organizations set forth in paragraph (a) of this section does prevail for the professional performers or related or supporting professional personnel in question, the requesting party will be so notified.

(c) All professional performers and related or supporting professional personnel (other than laborers or mechanics with respect to whom labor standards are prescribed in sections 5(j) and 7(j) of the Act) employed on projects or productions which are financed in whole or in part under section 5 or section 7 of the Act will be paid, without subsequent deduction or rebate on any account, not less than the prevailing minimum compensation determined in accordance with paragraph (a) of this section, unless an alternative determination is made under paragraph (b) of this section. Pending the decision of the Administrator on a request for determination under paragraph (b) of this section, the grantee may be required to set aside in a separate escrow account sufficient funds to satisfy the difference between the compensation (including fringe benefits) actually paid to the employee(s) in question; and the compensation (including fringe benefits) required under the applicable collective bargaining agreement negotiated by the labor organization named in paragraph (a) of this section, or furnish a bond with a surety or sureties satisfactory to the Administrator for the protection of the compensation of the affected employees.

§ 505.4 Receipt of grant funds.

(a) The grantee shall not receive funds authorized by section 5 or section 7 of the Act until adequate initial assurances have been filed with the Chairperson of the National Endowment for the Arts or the Chairperson of the National Endowment for the Humanities, pursuant to section 5(i) (1) and (2) and section 7(g) (1) and (2) of the Act as provided in § 505.5(a), that all professional performers and related or supporting professional personnel will be paid not less than the prevailing minimum compensation and that the safety and health requirements will be complied with. Neither shall the grantee receive any such funds if and after the Chairperson of the National Endowment for the Arts or Chairperson of the National Endowment for the Humanities is advised by the Secretary that continuing assurances as provided in § 505.5(b) are inadequate or that labor standards contemplated by sections 5(i) (1) and (2) or section 7(g) (1) and (2) of the Act have not been observed.

(b) In order to facilitate such assurances so that the grantee may receive the grant funds promptly, the Chairpersons of the National Endowment for the Arts and the National Endowment for the Humanities will transmit with the grant letter, to each grantee of a grant that will provide assistance to projects or productions employing professional performers or related or supporting professional personnel under section 5 or section 7 of the Act, a copy of these regulations together with two copies of the assurance form (Form No. ESA-38). The Chairperson will advise the grantee that before the grant may be received, the grantee must give assurances that all professional performers and related or supporting professional personnel (other than laborers or mechanics with respect to whom labor standards are prescribed in section 5(j) and section 7(j) of the Act), will be paid, without subsequent deduction or rebate on any account not less than the minimum compensation determined in accordance with § 505.3 (a) or (b) and that the safety and health requirements under § 505.6 will be met. The Chairpersons will maintain on file in Washington, D.C., for a period of three (3) years and make available upon requrest of the Secretary the original signed Form ESA-38 and a copy of the grant letter together with any

supplementary documents needed to give a description of the project or production to be financed in whole or part under the grant.

§ 505.5 Adequate assurances.

(a) *Initial assurances.* The grantee shall give adequate initial assurances that not less than the prevailing minimum compensation determined in accordance with § 505.3 will be paid to all professional performers and related or supporting professional personnel, and that no part of the project or production will be performed under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees, by executing and filing with the Chairperson of the National Endowment for the Arts or the Chairperson of the National Endowment for the Humanities, as appropriate, Form ESA-38.

(b) *Continuing assurances.* (1) The grantee shall maintain and preserve sufficient records as an assurance of compliance with section 5(i) (1) and (2) and section 7(g) (1) and (2) of the Act and shall make such reports therefrom to the Secretary as necessary or appropriate to assure the adequacy of the assurances given. Such records shall be kept for a period of three (3) years after the end of the grant period to which they pertain. These records shall include the following information relating to each performer and related or supporting professional personnel to whom a prevailing minimum compensation determination applies pursuant to § 505.3. In addition the record required in paragraph (b)(1)(vii) of this section shall be kept for all employees engaged in the project or production assisted by the grant.

(i) Name.

(ii) Home address.

(iii) Occupation.

(iv) Basic unit of compensation (such as the amount of a weekly or monthly salary, talent or performance fee, hourly rate or other basis on which compensation is computed), including fringe benefits or amounts paid in lieu thereof.

(v) Work performed for each pay period expressed in terms of the total units of compensation fully and partially completed.

(vi) Total compensation paid each pay period, deductions made, and date of payment, including amounts paid for fringe benefits and the person to whom they were paid, and

(vii) Brief description of any injury incurred while performing under the grant and the dates and duration of disability.

(Approved by the Office of Management and Budget under control number 1215-0017)

(2) The grantee shall permit the Administrator and the Assistant Secretary or their representatives to investigate and gather data regarding the wages, hours, safety, health, and other conditions and practices of employment related to the project or production, and to enter and inspect such project or production and such records (and make such transcriptions there of interview of), such employees during normal working hours, and investigate such facts, conditions, practices, or matters as may be deemed necessary or appropriate to determine whether the grantee has violated the labor standards contemplated by section 5(i) and section 7(g) of the Act.

(c) *Determination of adequacy.* The Administrator and Assistant Secretary shall determine the adequacy of assurances given pursuant to paragraphs (a) and (b) of this section within each of their respective areas of responsibilities, and may revise any such determination at any time.

§ 505.6 Safety and health standards.

(a) *Standards.* Section 5(i)(2) and section 7(g)(2) of the Act provide that "no part of any project or production which is financed in whole or in part under this section will be performed or engaged in under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees engaged in such project or production. Compliance with the safety and sanitary laws of the State in which the performance or part thereof is to take place shall be prima facie evidence of compliance." * * *" The applicable safety and health standards shall be those set forth in 29 CFR Parts 1910 and 1926, including matters incorporated by reference therein. Evidence of compliance with State laws relating to health and sanitation will be considered prime facie evidence of compliance with the safety and health requirements of the Act, and it shall be sufficient unless rebutted or overcome by a preponderance of evidence of a failure to comply with any applicable safety and health standards set forth in 29 CFR Parts 1910 and 1926, including matters incorporated by reference therein.

(b) *Variances.* (1) Variances from standards applied under paragraph (a) of this section may be granted under the same circumstances in which variances may be granted under section 6(b)(6)(A) or 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 655). The procedures for the granting of variances and for related relief are those published in Part 1905 of this title.

(2) Any requests for variances shall also be considered requests for variances under the Williams-Steiger Occupational Safety and Health Act of 1970, and any variance from a standard applied under paragraph (a) of this section and in Part 1910 of this title shall be deemed a variance from the standards under both the National Foundation on the Arts and Humanities Act of 1965 and the Williams-Steiger Occupational Safety and Health Act of 1970.

§ 505.7 Failure to comply.

The Secretary's representatives shall maintain a list of those grantees who are considered to be responsible for instances of failure to comply with the obligation of the grantees specified in section 5(i) (1) and (2) and section 7(g) (1) and (2) of the Act, which are considered to have been willfull or of such nature as to cast doubt on the reliability of formal assurances subsequently given and there shall be maintained a similar list where adjustment of the violations satisfactory to the Secretary was not properly made. Assurances from persons or organizations placed on either such list or any organization in which they have a substantial interest shall be considered inadequate for purposes of receiving further grants for a period not to exceed three (3) years from the date of notification by the Secretary that they have been placed on the lists unless, by appropriate application to the Secretary, they demonstrate a current responsibility to comply with section 5(i) (1) and (2) and section 7(g) (1) and (2) of the Act, and demonstrate that correction of the violations has been made.

[FR Doc. 87-21689 Filed 9-18-87 8:45 am]
BILLING CODE 4510-27-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 202, 203, 206, 207, 210, and 241

43 CFR Part 3160

Revision of Oil and Gas Product Valuation Regulations and Related Topics

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of intent to issue a second further notice of proposed rulemaking.

SUMMARY: The Minerals Management Service (MMS) is hereby giving notice that it intends to issue a second further notice of proposed rulemaking for both the gas and oil product value regulations. The purpose of this notice is to advise lessees and other interested persons of the procedures MMS intends to follow before issuing final regulations.

FOR FURTHER INFORMATION CONTACT: Dennis C. Whitcomb, Minerals Management Service, Royalty Management Program, Chief, Rules and Procedures Branch, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 628, Denver, Colorado, 80225, telephone number (303) 231-3432, (FTS) 326-3432.

SUPPLEMENTARY INFORMATION: The MMS earlier this year issued proposed valuation regulations for gas (52 FR 4732, February 13, 1987) and oil (52 FR 1858, January 15, 1987. Many comments were received both in written form and at the several public hearings.

Because of the complexity of the issues and the diversity of the comments, MMS issued further notices of proposed rulemaking for gas (52 FR 30776, August 17, 1987) and oil (52 FR 30826, August 17, 1987), which had attached as an appendix to each of those notices a draft of the final rules. The public comment period for these notices originally was due to close on September 2, 1987, but at the request of several persons was extended to September 11, 1987. During the comment period, MMS held separate meetings with the three principal interested constituencies, including the States, Indian lessors, and the oil and gas industry.

The MMS received many written comments during the public comment period on the further notices of proposed rulemaking. However, MMS also received several requests to further extend the comment period because of the length of the rules and the complexity of the issues, and to give representatives of the interested constituencies an opportunity to meet and consider the draft final rules.

The MMS has decided that rather than extend the comment period on the August 17 further notices of proposed rulemaking, it instead will publish a second further notice of proposed rulemaking with a second set of draft final rules for both oil and gas. It is expected that the second further notices of proposed rulemaking will be issued by the end of October.

To accommodate those persons who needed additional time to comment on the first draft final rules, MMS will include in the rulemaking record any comments on the first draft final rules received after September 11. These comments will be considered in issuing final regulations along with comments received on the second draft final rules.

Although several modifications are being incorporated in response to the public comments, the second draft final rules will not be substantially different from the first draft final rules. Therefore, MMS intends to have only a 30-day public comment period. This should be ample time to comment since, as explained above, MMS will continue to expect comments on the first draft final rules. Morever, MMS will not expect commenters to resubmit comments previously provided on the proposed rules and on the first further notice of proposed rulemaking, but will expect comments to focus primarily on the differences between the first and second draft final rules.

Date: September 16, 1987.

David W. Crow,

Deputy Director, Minerals Management Service.

[FR Doc. 87-21675 Filed 9-18-87; 8:45 am]

BILLING CODE 4310-MR-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-3264-3]

Final Authorization of State Hazardous Waste Management Program; Wisconsin

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Wisconsin has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The program revisions were applied for by Wisconsin through two applications. The first application is for State program revisions to attain equivalence with the following Federal regulatory changes: (1) November 21, 1984, Federal Register (FR)—Interim Status Standards Applicability, (2) January 4, 1985, FR—Definitions of Solid Waste, (3) November 8, 1984, FR—section 3006(f) of the Hazardous and Solid Waste Amendments (HSWA), Availability of Information. The second application is for a State program revision regarding public participation procedures during the modification of hazardous waste management facility permits, as required by 40 CFR 271.14 (t) through (aa). The Environmental Protection Agency (EPA) has reviewed Wisconsin's applications and has made a decision, subject to public review and comment, that Wisconsin's Hazardous Waste Program Revision Applications satisfy all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Wisconsin's hazardous waste program revisions. Wisconsin's applications are available for public review and comment.

DATE: Comments on the Wisconsin applications must be received by the close of business on October 21, 1987.

ADDRESSES: Copies of Wisconsin's applications are available from 8:30 a.m., to 4:30 p.m., at the following addresses for inspection and copying: Wisconsin Department of Natural Resources, Bureau of Solid Waste Management, 101 South Webster Street, Madison, Wisconsin 53707, Contact—St. Clair Thompson (608) 266-5376; U.S. EPA Headquarters Library, PM 211A, 401 M Street, SW., Washington, DC 20460, Phone: 202/382-5926; U.S. EPA Region V, Waste Management Division, Solid Waste Branch, 230 South Dearborn Street, Chicago, Illinois 60604, Contact—Charles Wilk (312) 886-4177.

Written comments should be sent to Mr. Charles Wilk, U.S. EPA, Region V, Waste Management Division, Solid Waste Branch, 230 South Dearborn Street, 5HS-JCK-13, Chicago, Illinois 60604. Written comments must specify which of the applications is being addressed.

FOR FURTHER INFORMATION CONTACT: Charles Wilk, Wisconsin Regulatory Specialist, Solid Waste Branch, U.S. EPA, Region V, 230 South Dearborn, 5HS-JCK-13, Chicago, Illinois 60604, (312) 886-4177 [FTS 8-886-4177].

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the

HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR Parts 260 through 266 and 124 and 270.

B. Wisconsin

Wisconsin initially received final authorization on January 30, 1986. Today, Wisconsin is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(4). On November 10, 1986, EPA received an application from Wisconsin that concerned State regulatory revisions for equivalence with the following provisions of the RCRA program:

- November 21, 1984, FR—Interim Status Standards Applicability,
- January 4, 1985, FR—Definition of Solid Waste,
- November 8, 1984, FR—section 3006(f)—Availability of Information,
- April 23, 1985, FR—Interim Status Standards for Landfill Cover Design.

EPA's review, dated February 3, 1987, of the application concluded that the State could be authorized for three of the four provisions applied for, contingent on the State's satisfactory response to EPA's comments on the application. EPA also notified the State that State regulatory revisions would be necessary before the State could be authorized for Interim Status Standards for Landfill Cover Design.

One June 30, 1987, the State submitted a revised application for the provisions above, less those for Interim Status Standards for Landfill Cover Design. EPA has reviewed Wisconsin's revised application and has made a decision, subject to public review and comment, that Wisconsin's hazardous waste program revision satisfies all of the requirements necessary to qualify for these additional program modifications. Consequently, EPA intends to grant Wisconsin final authorization for the additional program modifications.

On July 23, 1987, Wisconsin submitted another final authorization application to modify its authorized hazardous waste program for State regulatory revisions analogous to 40 CFR 124 as required by 40 CFR 271.14 (t) through (aa). These modifications to the State's program involve the codification into State regulations of agreements from the Wisconsin Department of Natural Resources/USEPA Memorandum of Agreement (MOA) dated January 17, 1986. The MOA is a document drafted in the process of authorization of a State. It serves as a vehicle for specifying areas of consideration and cooperation in the respective roles and responsibilities of EPA and the authorized State. The MOA may also contain State-EPA agreements that are relevant to the implementation of the hazardous waste program. For the final authorization of Wisconsin's program received on January 30, 1986, the MOA included a State agreement to employ certain procedures analogous to 40 CFR Part 124 as required by 40 CFR 271.14 (t) through (aa).

Since receiving authorization, Wisconsin has proceeded to revise its regulations to codify the MOA agreements concerning 400 CFR 271.14 (t) through (aa). Wisconsin's revised regulations have been approved and adopted by the Wisconsin Natural Resources Board (NRB). On July 27, 1987, the presiding officers of both houses of the Wisconsin legislature received the NRB adopted regulations.

The presiding officers have seven days to assign the regulations to standing legislative committees. These committees have thirty days to review the regulations After the regulations complete legislative review they are signed by the Secretary of the WDNR. The certified copies of the regulations are filed by the WDNR with the Revisor of Statutes for publication with the Secretary of State.

Today Wisconsin is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(4). EPA has reviewed the application dated July 23, 1987, and has made a decision, that Wisconsin's hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. This decision is contingent on the signing by the Secretary of WDNR of the above referenced regulations in substantially the same form as they were approved and adopted by the NRB. This decision is subject to public review and comment. Consequently, EPA intends to grant Wisconsin final authorization for these additional program modifications.

The public may submit written comments on one or both of EPA's decisions up until October 21, 1987. Each written comment must specify which of the two decisions is being addressed. Copies of Wisconsin's applications are available for inspection and copying at the locations indicated in the "Addresses" section of this notice.

Approval of one or both of Wisconsin's program revisions shall become effective when the Administrator's final approval is published in the **Federal Register**. If adverse comments pertaining to one or both of Wisconsin's program revisions discussed in this notice is received, EPA will publish either (1) a notice of disapproval or (2) a final rulemaking approving the modificaitons, which would include a response to all significant comments. Depending on the comments received, EPA may publish a notice of disapproval for one decision and a final rulemaking for the other. Publication of the notices on the final decision may also be made independently of each other.

Any RCRA hazardous waste permits, or portions of permits, issued by EPA under the provisions for which the State is applying for authorization, prior to the effective date of authorization, shall be administered by EPA. EPA will suspend issuance of any further permits under the provisions for which the State is authorized on the effective date of authorization. EPA had previously suspended issuance of permits for other provisions on January 30, 1986, the effective date of Wisconsin's authorization for the RCRA program.

Wisconsin is not authorized nor seeking to be authorized to operate the Federal Program on Indian Lands. This authority shall remain with EPA.

C. Effect of HSWA on Wisconsin's Authorization

Prior to the Hazardous and Solid Waste Amendments amending RCRA, a State with Final Authorization would have administered its hazardous waste program entirely in lieu of EPA. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obligated to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under the amended section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by the HSWA take effect in authorized States at the same time as they take effect in non-authorized States. EPA is directed to carry out those requirements and prohibitions in authorized States, including the issuance of full or partial permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorization, the HSWA provisions apply in authorized States in the interim.

As a result of the HSWA, there will be a dual State/Federal regulatory program in Wisconsin. To the extent the authorized State program is unaffected by the HSWA, the State program will operate in lieu of the Federal program. To the extent HSWA-related requirements are in effect, EPA will administer and enforce these portions of the HSWA in Wisconsin until the State receives authorization to do so. Among other things, this will entail the issuance of Federal RCRA permits for those areas in which the State is not yet authorized.

Once the State is authorized to implement a HSWA requirement or prohibition, the State program in that area will operate in lieu of the Federal provision. Until that time the State may assist EPA's implementation of the HSWA under a Cooperative Agreement.

Today's proposed rulemaking does not include authorization of Wisconsin's program for any requirement implementing the HSWA. Any State requirement that is more stringent than a Federal HSWA provision will also remain in effect; thus, regulated handlers must comply with any more stringent State requirements.

EPA has published a **Federal Register** notice that explains in detail the HSWA and its effect on authorized States. That notice was published at 50 FR 28702–28755, July 15, 1985.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a signfiicant economic impact on a substantial number of small entities. This authorization is for modifications to the State's existing authorized program and is not designed to increase the regulated population. It does not impose any new burdens on small entities.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transporation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Frank M. Covington,
Acting Regional Administrator.

[FR Doc. 87–21721 Filed 9–18–87; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Family Assistance

Office of Child Support Enforcement

Office of the Secretary

45 CFR Parts 95, 205 and 307

Automatic Data Processing Equipment and Services; Conditions for Federal Financial Participation

AGENCY: Office of Family Assistance, Office of Child Support Enforcement, and Office of the Secretary, HHS.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: In September 1978, the Department of Health and Human Services (HHS—then the Department of Health, Education and Welfare) published a regulation containing requirements that State and local governments must observe to claim Federal reimbursement for the costs of automatic data processing (ADP) equipment or services. The regulation is applicable to certain public assistance programs under the Social Security Act. The regulation was modified in February 1980, January 1986, and on December 18, 1986.

This document proposes adoption of amendments which would change requirements for the claiming of Federal matching funds for the acquisition of ADP equipment or services in the administration of public assistance programs under Titles I, IV, X, XIV, XVI (AABD) and XIX of the Social Security Act. The changes revise the process under which State and local governments submit requests for Federal Financial Participation (FFP) in support of the acquisition of Automatic Data Processing Equipment or Services.

DATE: Comments must be received by November 20, 1987.

ADDRESS: Comments should be forwarded to: Barbara S. Wamsley, Director, Office of Assistance Policy and Systems Review, Hubert H. Humphrey Building, Room 530G, 200 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Ron Lentz (202) 245–0422.

SUPPLEMENTARY INFORMATION:

Regulatory History

HHS, then the Department of Health, Education and Welfare, published final regulations entitled "Automatic Data Processing Equipment and Services—Conditions for Federal Financial Participation", Subpart F of 45 CFR Part 95 in the **Federal Register** (43 FR 44851), on September 29, 1978. The September 29, 1978 regulations required State and local governments to obtain prior written approval by the Department for the acquisition of ADP equipment or ADP services when the acquisition costs exceeded $25,000. These regulations were modified by a rule change published on February 19, 1980 in the **Federal Register** (45 FR 10794), to raise the prior approval threshold to $100,000 for acquisitions costing that amount or more in Federal and State funds over a twelve-month period and to $200,000 in Federal and State funds for the total acquisition. The change also required States to submit a brief prior notice of acquisition for ADP equipment and services that cost $25,000 to $100,000 over a twelve-month period.

On November 19, 1984, HHS published a Notice of Proposed Rulemaking (NPRM) "Automatic Data Processing Equipment and Services; Conditions for Federal Financial Participation" with comment period in the **Federal Register** (49 FR 45617). That NPRM was applicable to the administration of Public Assistance programs under Titles I, IV–A, B, C, D, and E, X, XIV, XVI (AABD), and XIX of the Social Security Act. The NPRM proposed raising the prior approval threshold to $200,000 for acquisitions costing that amount or more in Federal (regular matching) and State funds over a twelve-month period and to $300,000 in Federal (regular matching) and State funding for the total acquisition, revising the prior approval requirements and eliminating the prior notice requirement. This NPRM also proposed modifying the current regulation to conform to legislative changes in the administration of some Social Security Act programs and to clarify the regulatory language.

On January 27, 1986, the Department published a separate but related Interim Final Rule with Comment Period in the **Federal Register** (51 FR 3337) which established the conditions and the procedures under which a State can obtain consideration for Federal Financial Participation (FFP) in emergency and certain other circumstances for the acquisition of automatic data processing (ADP) equipment or services in affected programs. The Interim Final Rule added

§ 95.623 to address the waiver of the prior approval requirement.

Consequently, the public was invited to submit comments pertaining to both the November 19, 1984 NPRM and the Interim Final Rule. Comments received on the 1984 NPRM were addressed in the rule that HHS finalized on December 18, 1986. HHS will address comments received on the Interim Final Rule when we finalize this NPRM.

The Final Regulation published on December 18, 1986 raised the prior approval threshold to $200,000 for acquisitions costing that amount or more in Federal (regular matching) and State funds over a twelve-month period and to $300,000 in Federal (regular matching) and State funding for the total acquisition, revised the prior approval requirements and eliminated the prior notice requirement. That final regulation also modified the then current regulation to conform to legislative changes in the administration of some Social Security Act programs and to clarify the regulatory language.

Substantive Background

In August of 1985 HHS established an Interdepartmental Task Force consisting of representatives of the Health Care Financing Administration (HCFA), the Office of Family Assistance (OFA), the Office of Child Support Enforcement (OCSE), the Office of Human Development Services (OHDS) and the Food and Nutrition Service (FNS) of the United States Department of Agriculture (USDA) to review the existing HHS and USDA approval procedures for FFP for the acquisition of ADP equipment and services followed by these agencies.

The Task Force reviewed HHS and USDA approval procedures and identified areas that should be revised, deleted or added in order to streamline the process in such a way as to eliminate redundant Federal/State reviews, allow for a more comprehensive review and result in a more timely response to State governments. The Task Force's efforts have resulted in the new process presented in these proposed rules.

The proposed new process is intended to respond to two problem areas that delay the acquisition, development and implementation of State procured ADP equipment and services. The first problem area, for both Federal and State agencies administering the programs covered by this subpart, is one of inadequate State planning prior to the acquisition of ADP equipment or services. Under the present process for acquiring Federal matching funds, set out in 45 CFR 95.601 et seq., States have proceeded to request Federal funding of their ADP services and/or ADP acquisitions of equipment without adequate planning in order to begin the flow of Federal funding as soon as possible. This has resulted in inadequate funding requests which require substantial revisions and result in lost time before HHS will approve them, and in a number of instances has resulted in the funding of projects which have either failed or had substantial cost and time overruns.

The proposed new process will encourage State agencies to request Federal funding in support of planning activities that will contribute to a more effective, efficient and economical acquisition of ADP equipment and/or services. It will consist of two phases. The first phase is a project planning phase that would allow States to request funding, through the submission of a "Planning APD". Upon completion of the project planning phase of the new process the State would then be adequately prepared to submit an "Implementation APD" for the acquisition of ADP equipment or services. We anticipate that due to better project planning this new process will result in more timely processing of funding requests, since the funding requests will be based on more complete information, and result in fewer system development failures and cost and time overruns.

The other problem area that hinders State agencies in their ADP system development activities is the current Federal requirement at 45 CFR 95.611(b)(1) that requires State agencies to request and receive HHS prior written approval for any change to the Advance Planning Document (APD). This Federal requirement can cause major disruption in State ADP system development projects, since until HHS written approval is granted, the project is not allowed to proceed with the assurance of Federal funding. This delay is especially critical where States have existing contractual arrangements with private contractors. Project delays of this type can result in higher Federal and State expenditures, and delay system implementation.

As explained in greater detail below, the proposed new process will alleviate this problem by allowing States to proceed with project development activities when changes to the "Planning APD" or "Implementation APD" occur and permit approval of a "Planning APD" or "Implementation APD" change after a State initiates action to implement a change.

The existing regulations at 45 CFR Part 95 Subpart F require:

—HHS written prior approval for the APD, where a State will claim the regular matching rate, for projects which exceed the dollar thresholds contained in the existing § 95.611(a), and APD changes;

—HHS written prior approval in all cases for RFPs, contracts and contract amendments, where a State will claim the enhanced matching rate;

—HHS written prior approval, when required by HHS for RFPs, contracts and contract amendments, where a State will claim the regular matching rate. For example, the Department may require prior approval of RFPs, contracts and contract amendments if the project is complex or the State has a history of poor performance; and

—HHS written prior approval when required by HHS, for feasibility studies, system studies, system designs, system specifications and acceptance documents.

In addition for title IV–A (45 CFR 205.35–205.38) and title IV–D (45 CFR Part 307) the regulations require:

—HHS approval for initial and annually updated advance automatic data processing planning document in all cases, where a State will claim the enhanced matching rate, regardless of the project cost.

The proposed amendments to 45 CFR Part 95 Subpart F, 45 CFR 205.35, 205.37 and 45 CFR 307.1, 307.15, 307.20 and 307.30 as presented herein and supplemented by existing regulations at 45 CFR 205.36, 205.38, 45 CFR 307.10, 307.25, 307.35, 307.40 and 42 CFR 433 Subpart C, would require:

—HHS written prior approval in all cases for the APD, both planning and implementation, where a State will claim the enhanced matching rate, regardless of the total project cost;

—HHS written prior approval for the APD, both planning and implementation, where a State will claim the regular matching rate for projects whose total costs (planning, development and implementation) exceed the dollar thresholds specified in the proposed § 95.611(a);

—HHS written prior approval, when required by HHS, for RFPs and contract amendments for which a State will claim the enhanced matching rate and for contracts regardless of the matching rate to be claimed;

—HHS written approval, regardless of the matching rate to be claimed, for the Advance Planning Document Modifications (APDMs) as defined in § 95.605 of these proposed rules, and

contract amendments for regular matching rates if HHS required;
—Submission to HHS for approval regardless of the matching rate to be claimed, of Annually Updated APDs, as defined in § 95.605 of these proposed rules, contracts not requiring prior approval, contract amendments not requiring approval, RFPs for enhanced funding not requiring prior approval and all RFPs for which a State will claim the regular matching rate. RFPs, contracts and contract amendments, for regular funding, which are less than $50,000 and are an integral part of an approved APD need not be submitted.

We expect that these proposed changes in our regulations would:

—Enhance State planning for system development by encouraging State agencies to request federal funding in support of planning activities that will result in the development of better prepared "Implementation APDs";
—Streamline the APD review and approval process by reducing and simplifying the Federal prior approval requirements for States requesting FFP for ADP system development;
—Establish a more cooperative partnership with State agencies in which much of the current Federal oversight and monitoring requirements may be reduced as States assume a fuller responsibility for meeting all commitments contained in the "Planning APD" or "Implementation APD"; and,
—Encourage the transfer of State systems by requiring the State to include, as part of the APD "a statement of alternative considerations including a transfer of an existing system and an explanation of why such a transfer is not feasible if another alternative is proposed". Other suggestions, by State agencies, that might further encourage the transfer of State systems (e.g. more streamlined approval procedures) are encouraged.

HHS would like to explore the feasibility of establishing cost/output and performance guidelines for developing a system. If these guidelines could be set, a State proposing a performance level and cost within the guidelines might be subject to an expedited review and approval process. HHS would like States to comment on the feasibility of setting guidelines, how they might be set and to suggest changes in the APD review and approval process in this regard.

Although we are streamlining the process, we intend to continue to closely follow State development projects for the following reasons:

(a) HHS wants to know of projects which deviate from approved APDs in order to bring corrective action to bear on such projects. HHS would not be acting responsibly by waiting until a project failed when it could have acted to help prevent such a failure.

(b) Since HHS monitors State systems closely in the APD process, HHS is able to share good practices from State to State. HHS believes that it has had many notable successes (e.g., system transfers) in the past because of its monitoring activities.

(c) Systems development is not an isolated function. The system activities have a close relationship with State error reduction initiatives and program policy questions. Automated systems result in more accurate eligibility determinations and grant calculations.

(d) Studies by Federal agencies (e.g., the General Accounting Office) have pointed to the need for considerable oversight of systems activities to assure that scarce Federal resources are spent in the most cost-effective manner.

Specific Rule Changes

Specific changes to the rule to accomplish the objectives listed above are:

1. We propose to amend § 95.605 to define new documents introduced into the process and to revise definitions of existing terminology for greater clarity.

The definitions that would be added are:

—"Planning APD" as defined in the regulation at § 95.605. This definition is in keeping with one of the overall thrusts of this regulatory revision, which is to improve State APD equipment and/or services acquisition planning. The Planning APD as proposed to be implemented by this regulation will require a State to commit to performing certain planning activities as a condition for acquiring Federal funding for their planning activities. As an example, a Planning APD for the acquisition of a Management Information System will include the activity of developing a General Systems Design (GSD). The existence of a GSD will allow the State to submit a better defined Implementation APD and improve significantly the prospects of completing the project on schedule and within the original cost estimates.

The requirement for a statement in the "Planning APD" that ADP equipment or services eventually acquired meet a need or problem is a special "functional" requirement necessary to be eligible for enhanced HHS funding. Additional APD requirements at 45 CFR 205.37(a) (1) through (8), 45 CFR 307.15 and Part 11 of the State Medicaid Manual would apply to the extent that information is required in an APD to justify a proposed acquisition for which the enhanced matching rate will be claimed.

—"Implementation APD" means a written plan of action to acquire the proposed ADP services or equipment. The required format and content of the Implementation APD would be further defined in the regulation at § 95.605. This definition is established to distinguish the "Implementation APD" which presents the plan of action for acquiring ADP equipment and/or services from the "Planning APD" which addresses the activities to be undertaken in order to determine the equipment and/or services needed to be acquired.

The State must carefully consider all possible Implementation APD activity costs (e.g. system conversion, computer capacity planning, supplies, training, and miscellaneous ADP expenses) when developing the projected project costs. The Planning APD must include activities that would support this Implementation APD requirement.

The requirement for a statement in the "Implementation APD" that ADP equipment or services eventually acquired meet a need or problem is a special "functional" requirement necessary to be eligible for enhanced HHS funding. Additional APD requirements at 45 CFR 205.37(a) (1) through (8), 45 CFR 307.15 and Part 11 of the State Medicaid Manual would apply to the extent that information required in an APD to justify a proposed acquisition for which the enhanced matching rate will be claimed.

—"Advance Planning Document Update" for the planning or implementation of ADP equipment or services or "APDU" means a revision to the "Planning APD" or the "Implementation APD" that is not significant enough to cause any of the following:

• A projected change in total approved project costs for enhanced matched projects;

• A projected change of $50,000 or 10%, whichever is less, in total approved project costs for regular matched projects;

• A change of $50,000 or 10 percent, whichever is less, in the allocation of costs among project years;

• An extension of 10 percent or more in timeframes for projected milestones

or an extension of 90 days in timeframes for projected milestones, whichever is greater;

• A change in procurement activities; or

• A significant change in system concept.

This definition would establish thresholds for changes to previously approved "Planning APDs" or "Implementation APDs" for which HHS will no longer require prior approval. This new definition would modify the interpretation of 45 CFR 205.37(a)(4) as contained in the preamble of a final rule titled "General Administration of Public Assistance Programs; Federal Financial Participation in the Cost of a Statewide Mechanized Claims Processing and Information Retrieval System in the Aid to Families With Dependent Children Program," 45 CFR Part 205, which was published in the **Federal Register** (51 FR 13001), on April 17, 1986. That interpretation provided that "[if] cost projections outlined in the approved APD should change, a modified APD must be submitted for approval." (51 FR 13002). Thus any change in cost would require the submission of a new APD. Under these proposed regulations, this would no longer be the case.

A change in procurement activities includes:

—A change in procurement methodology that would limit competition beyond what was described in the APD (e.g., a change from a competitive to a non-competitive procurement);

—A reduction or increase in the procurement activities which were described in the APD; or,

—A change from an acquisition which supports the needs of more than the State Agency (e.g., a "blanket" contract), to an acquisition which will benefit solely the State Agency.

A significant change in system concept, includes:

—A proposal of a different system alternative; a different "mix" of system hardware and software; a change in project plan; a change in the cost/benefits projection; or, a change to the approved cost allocation methodology.

—"Advance Planning Document Modification for planning an acquisition or implementation" ("APDM") means a revision to the APD that is significant enough to cause any of the following:

—A projected change in total approved project costs for enhanced matching projects;

—A projected change of $50,000 or 10%, whichever is less, in total approved project costs for regular matched projects;

—A change of $50,000 or 10 percent, whichever is less, in the allocation of costs among project years;

—An extension of 10 percent or more in timeframes for projected milestones or an extension of 90 days in timeframes for projected milestones, whichever is greater;

—A change in procurement activity; or,

—A significant change in system concept.

The APDM must include an updated cost benefit analysis.

This definition would establish thresholds for changes to previously approved "Planning APDs" or "Implementation APDs" for which HHS would require approval as a condition for a State to receive FFP to fund the proposed change. HHS believes that project changes of this order of magnitude are sufficient to warrant HHS approval to ensure that projects continue to be cost effective and properly carried out and managed. The descriptions of procurement activity and system concept changes, described above, apply here also.

—"Annually Updated APD" is added. The "Annually Updated APD" would be defined in this proposed regulatory change to provide HHS with a report of previous year activities. HHS, under this proposed rule, would define when an "Annually Updated APD" must be submitted. The submission of the "Annually Updated APD" would be within 90 days after the anniversary of the approval of the "Planning APD" or "Implementation APD". An Annually Updated APD is not required when certification specifications are met. Significant changes to either APD that occur during the year, prior to the anniversary date, would be submitted individually as they occur as APDMs.

—"General Systems Design" would be added.

The definitions that would be revised are:

—"Advance Planning Document" ("APD"), "Initial advance automatic data processing planning document" or "Initial APD" would mean a "Planning APD" and an "Implementation APD" which have been further defined in revisions to § 95.605 as proposed by this rule. For projects for which States will claim enhanced funding under Titles IV-A, IV-D and XIX the definition of APD includes the additional, specific requirements contained in 45 CFR 205.37(a) (1) through (8), 45 CFR 307.15 and Part 11 the State Medicaid Manual.

—"Automatic Data Processing Services" or "ADP Services" would be expanded to include the following ADP services:

(a) Systems Training;

(b) Systems Development;

(c) Site Preparation;

(d) Data Entry; and

(e) Personal services related to automated systems development and operations that are specifically identified as part of a "Planning APD" or "Implementation APD". As an example, a personal service would be the service of an "expert individual" to provide advice on the use of ADP software or hardware in developing a State automated management information system.

This would expand on the existing definition of ADP services in order to clarify those ADP services that are subject to this regulation. This change would also establish when "personal services" constitute ADP services. In the past some States interpreted "personal services" covered by these regulations to include all management consultant contracts, regardless of their relationship to the State's acquisition of ADP equipment or services. This was not the intent of the original definition of ADP services. We would extend the definition of "ADP services" to indicate that only those "personal services" that are directly related to a specific "Planning APD" or "Implementation APD" are covered by these regulations.

2. Section 95.611(a) would be modified to require a State to submit requests (in the form of a "Planning APD" or an "Implementation APD") for prior approval signed by the appropriate State official, to the Assistant Secretary for Management and Budget (ASMB), Department of Health and Human Services. The State would have to send the ASMB the original and one copy of the request for each HHS component from which the State is requesting funding and one for the ASMB. The State would also have to send one copy of the request directly to each Regional program component and one copy to the HHS Regional Director's office.

We would expect to provide the States with appropriate guidance and the mailing addresses for regional office distribution. The purpose of these new distribution requirements would be to allow Central and Regional Offices to begin the document review at the same time and avoid delays in transmission of requests from the Central Office to the Regional Offices.

3. We propose to delete § 95.611(b)(2). The current regulation requires HHS prior approval of all RFPs, contracts, and contract amendments for enhanced funding. The NPRM would limit this requirement to RFPs for enhanced FFP when HHS specifically requires prior approval of the RFP when rendering a decision on the "Planning APD" or "Implementation APD". This lesser requirement is contained in the NPRM at § 95.611(b)(3).

The NPRM would require prior approval of contracts if HHS specifically required prior approval of the contract, when rendering a decision on the "Planning APD" or "Implementation APD". This lesser requirement is contained in the NPRM at § 95.611(b)(4).

The NPRM would require the State agency to submit to the Department for approval contract amendments that require HHS approval as a result of the Department's specifically stated requirement in the APDM approval letter. This lesser requirement is contained in the NPRM at § 95.611(c).

The NPRM would require the State agency to submit, for the Department's review all other contracts and contract amendments awarded by the State while executing activities detailed in the "Planning APD", "Implementation APD", APDMs or APDUs. This requirement is contained in the NPRM at § 95.611(d).

4. Section 95.611(b)(1) would be redesignated § 95.611(b)(2) and modified to change the document name to "Implementation APD" and delete "or any change of the Advance Planning Document". This section would also be modified to allow for approval of funding of ADP acquisitions in phases. Under this approach the project, including a detailed estimate of the total project cost would be approved initially in concept. However, specific funding would be approved incrementally and contingent upon the State's achievement of specified project milestones.

5. A new § 95.611(b)(1) would be added to require the States, if they choose to request any FFP for planning, to obtain written prior approval of the Department for a "Planning APD" prior to entering into contractual agreements or making any other commitment for acquiring ADP planning services prior to the acquisition of ADP equipment or services.

The purpose of this new requirement is to encourage and allow States to initiate planning activities prior to the procurement of large-scale ADP equipment or services. It is anticipated that through improved planning, on the part of State agencies, more effective, efficient and economical acquisitions of ADP equipment and/or services will result. It is also anticipated that due to better planning more timely processing of State requests will occur, as these requests will be based on more complete supporting information and there will be fewer system development failures and cost and time overruns. It should be noted that the proposed new planning process (the submission of a Planning APD) does not reflect changes in the FFP rates for planning. HCFA funds planning activities at the 50 percent FFP rate. However, development of a General Systems Design (GSD) is considered developmental activity and will be funded by HCFA at the enhanced funding rate.

A State would not receive FFP for planning costs unless a "Planning APD" is submitted and approved. However, State agencies could submit an "Implementation APD" directly without prior submission or approval of the "Planning APD" if they do not wish to receive FFP for project planning.

6. Section 95.611(b)(3) would be revised to require States to submit only those Requests for Proposals (RFPs), for which States will claim enhanced funding, if HHS so requests. Currently the Department may require prior approval for RFPs for which regular funding will be claimed and if, for example, the procurement is complex or the grantee has a history of performance problems.

7. Section 95.611(b)(4) would be deleted since the new process does not require prior approval of any of the documents that are mentioned in § 95.611(b)(4).

8. A new § 95.611(b)(4) would be added to require prior approval of a contract (for regular and enhanced funding), or a contract amendment for enhanced funding, when HHS specifically requires it,when it renders a decision on the "Planning APD" or "Implementation APD". Currently the Department may require prior approval of contracts when the State is requesting funding at the regular matching rate and, for example, if the procurement is complex or the grantee has a history of performance problems.

9. Section 95.611(c) would be deleted since this requirement has been accommodated by § 95.611(d) of the NPRM.

10. Since the NPRM would relieve States of the requirement to submit certain documents for prior approval, a new § 95.611(c) would be added to require States to submit APDMs, feasibility studies (when required as specified in the "Planning APD" or "Implementation APD" approval letter), contract amendments (when required as specified in the APDM approval letter) for HHS approval.

If the documents submitted for HHS approval do not meet applicable Federal requirements, no FFP would be allowed for the activities which are the subject of the documents. The Department would allow, the State, through the addition of this new section, to proceed with the process of acquiring ADP equipment or services, without acquiring HHS written prior approval of the documents listed in this section. However, the Department would retain the right to disallow FFP already provided if it disapproves the documents mentioned in this section *or if the required documents do not conform to the approved APD or APDM.*

If the State is not willing to accept this risk, the State could submit these documents for prior approval. In such cases, while specific prior claimed costs might be subject to disallowance (just as any State claim is always open to review and analysis) a State would be assured that the major element of its APDM or feasibility study, for example, had received federal authorization.

11. Section 95.611(d) would be redesignated § 95.611(e).

12. A new § 95.611(d) would be added to require State and local agencies to submit for HHS approval the following documents:

—Annually Updated APDs;
—Contracts and Contract amendments (not requiring approval or prior approval under §§ 95.611(b) and (c));
—RFPs for enhanced funding (not requiring prior approval under § 95.611(b)) not later than when released to the public; and
—RFPs for regular funding not later than when released to the public.

Contracts, contract amendments and RFPs for regular funding which are less than $50,000 and are an integral part of the approved APD need not be submitted.

States would be required to issue an addendum or revision to the RFP, contract or contract amendment should HHS determine during its review that the RFP, contract or contract amendment requires modification or clarification. The documents covered by this new section would be submitted to the Department and would be deemed approved if HHS took no action to disapprove within 45 days of receipt by the ASMB, unless HHS notified the State that HHS needed additional time to evaluate the documents.

If the documents submitted to HHS under this section for a specific project do not meet Federal requirements (i.e.,

the rules contained herein and previous HHS approvals related to the same project), no FFP would be allowed for activities which are the subject of the documents.

13. A new § 95.612 Disallowance of Federal Financial Participation (FFP) would be added which provides that if the Department finds that any equipment or services acquisition approved or modified under the provisions of § 95.611 fails to substantially comply with the criteria, requirements, and other undertakings prescribed in the approved advance planning document, payment of FFP maybe disallowed. The Department approves FFP on the basis that the equipment or services acquisitions proposed under APDs will add to the proper and efficient operation of Social Security Act programs to which this subpart applies. By the same token, if the Department finds that a State fails to substantially comply with the terms of an approved APD, to the detriment of the proper and efficient operation of these affected programs, the Department may disallow FFP. The reasons for which the Department may disallow FFP include, but will not be limited to, failure of the proposed system to meet program effectiveness and efficiency objectives contained in the approved APD, and schedule slippages which result in cost over runs which eliminate expected future cost savings or otherwise adversely affect cost-benefit projections. In the case of a suspension of approval of an APD for enhanced funding, see 45 CFR 205.37(c), 307.40(a) and 305.37(d).

14. A new § 95.621(f) is proposed to establish minimum standard requirements for the security of non-Federal ADP systems used by State and local governments to administer programs covered under 45 CFR Part 95, Subpart F. HHS believes that increased reliance on automated systems to administer such programs and greater sophistication and complexity of the systems have resulted in the need to establish standard regulatory requirements to ensure the security of ADP facilities, operations and privacy of information. The need for standard regulatory requirements was demonstrated by a recent audit of the security of non-Federal ADP systems conducted by the U.S. Department of Agriculture's Office of Inspector General (USDA/IG).

The USDA/IG reviewed the security of 13 non-Federal ADP systems used by State and local governments to support the administration of Federal assistance programs. Although that review focused on Food Stamp systems, the review also included AFDC and Medicaid systems. The USDA/IG Audit Report Number 50651-2-CH issued October 1985, disclosed a wide range of computer security weaknesses and related problems. A copy of that report can be obtained by contacting the USDA/IG for Audit, Room 247-E, Administration Building, NW., Washington, DC 20250. Some of the more serious weaknesses concerned inadequate controls over physical security which could allow unrestricted access to computer hardware and inadequate software controls which could permit improper manipulation of data or payments. The USDA/IG found weaknesses in the organizational controls of data processing in all 13 States audited. Further, the USDA/IG found that none of the 13 States audited had established formal procedures or requirements to ensure that such ADP systems met minimum ADP security standards.

The sum of HHS' existing information safeguarding regulations for State data files is presented in separate HHS program specific regulations (e.g., 45 CFR 205.50, 45 CFR 303.21 and 42 CFR 431.300ff). While these regulations generally require State agencies to provide for data file safeguards, the requirements contain no specific ADP system security standards. HHS regulations do not impose specific system security requirements. Individual HHS agencies (FSA, OCSE and HCFA) have issued documents regarding agency system security requirements.

Although these documents establish certain specific program system security requirements, HHS recognizes the need to establish a broad basis for HHS system security requirements and State system security programs.

To accomplish this, HHS is proposing the addition of a new § 95.621(f) to 45 CFR Part 95, Subpart F entitled, "ADP Systems Security Requirements and Review Processes." The proposed new section would specify that State agencies are directly responsible for the security of ADP equipment, operations and information used in the administration of HHS programs covered under 45 CFR Part 95, Subpart F. The proposed security section would establish the following three basic minimum requirements for the security of such ADP systems:

- States shall develop appropriate standards and requirements to properly safeguard ADP resources and information processing.

This requirement is intended to establish a baseline in each State for safeguarding ADP resources and information processing against which States and HHS can measure the effectiveness of a State's security program. HHS considers the establishing of such a baseline to be critical to effectively safeguarding ADP resources and information processing and to evaluating the effectiveness of a State's security program.

- States shall establish an ongoing ADP security program to implement plans, policies and/or procedures to meet the State's ADP security standards and requirements and to maintain an ongoing program for conducting periodic risk analyses to evaluate potential threats to the system and incorporate appropriate safeguards.

This consists of the operating procedures, including establishing organizational responsibility and timeframes, which a State will undertake to meet the standards and requirements to properly safeguard ADP resources and information processing. HHS believes that such procedures are critical to meeting the ADP security standards and requirements established by a State.

- States shall establish an ongoing program of physical security reviews of ADP installations and provide the results of these reviews to HHS upon completion.

HHS believes that an effective security program requires follow-up to ensure established security procedures and processes meet established security standards and requirements. HHS intends this specific requirement for States to establish an on-going program of physical security reviews of ADP installations to meet this purpose. Requiring States to provide the results of their reviews to HHS is intended to provide HHS with information it needs to ensure that States are properly safeguarding ADP resources and information processing.

In summary, HHS proposes to require States to put in place ADP security programs which include establishing: Standards and requirements for such a program; procedures and processes for meeting established standards and requirements; and security reviews for ensuring established standards and requirements are met.

HHS believes it is more appropriate to allow States to determine the specific minimum standards and requirements to govern the security of their own ADP systems based on the unique circumstances of each State, rather than mandate general standards for all States and local agencies. Therefore, the rule specifies that States shall use standards governing the security of Federal ADP systems—Federal Information

Processing Standards (FIPS), FIPS numbers 31 and 73 entitled "Guidelines for ADP Physical Security and Risk Management" and "Guidelines for Security of Computer Applications"; Departmental/agency publications; recognized industry standards; and/or ADP systems security reviews and risk analyses conducted by or for local agencies, as the basis for the development of State specific requirements. Although the rule gives States this flexibility, HHS expects States to establish their particular security programs using tried and tested Federal or recognized industry standards, and not to establish new, untested standards. This is intended to minimize program cost, and help assure program effectiveness by taking advantage of the experiences of others in government and in industry.

The rule proposes eight specific areas of ADP security in § 95.621(f)(2)(ii) which must, at a minimum, be included in the State's ADP security requirements and program. These eight areas comprise what the Department has determined to be the major components of a security program for automatic data processing activities. The Department has made this determination based on experience gained from dealing with the security of internal Department automatic data processing activities, dealing with other Federal agencies in this area, and dealings with private industry on matters pertaining to automatic data processing security.

A final section is proposed which would specify that the ADP security requirements of § 95.621(f) are applicable to all ADP systems used to administer HHS programs covered under 45 CFR Part 95, Subpart F. The requirements apply to departmental ADP projects and currently operating systems. HHS does not intend that States would submit any of the State ADP security standards, requirements or plans to HHS agencies for review or approval. It would be the responsibility of the State agency to ensure proper security of the ADP system and information processing. Only the completed State ADP security reviews would be required for submission to HHS agencies.

15. 45 CFR 205.35 would be revised to add the terms "Annually updated advance automatic data processing planning document" and "Initial advance automatic data processing planning document" and indicate that these terms would be defined at 45 CFR Part 95, Subpart F, § 95.605.

16. Since the content requirements of the "Annually updated advance automatic data processing planning document" would be totally defined at § 95.605, § 205.37(a) would be revised to eliminate these requirements from that section.

17. 45 CFR 307.1 would be revised to add the terms "Annually Updated APD" and "Initial APD" and indicate that these terms would be defined at 45 CFR Part 95, Subpart F, § 95.605.

18. 45 CFR 307.15(a) would be revised to refer to 45 CFR Part 95, Subpart F, §§ 95.611 (a), (b), (c), and (d) for the appropriate process for approval of APDs.

19. 45 CFR 307.15 (c) and (d) would be removed, since these functions are now accounted for under 45 CFR Part 95, Subpart F.

20. 45 CFR 307.20 (b) and (c) would be removed since the requirements of these sections are superseded by 45 CFR Part 95, Subpart F.

21. 45 CFR 307.20(d) would be redesignated 45 CFR 307.20(b).

22. 45 CFR 307.30(e) would be removed since the requirements of this section are superseded by 45 CFR Part 95, Subpart F.

Effective Date

Since this proposed rule would revise the existing process whereby the State requests FFP for the acquisition of ADP equipment or services, we recognize that States would need some time for a transition from the old process to the proposed new process. With this thought in mind we solicit comments on the length of time and the manner necessary to make that transition. For example, we are considering having the procedures and requirements set forth in the proposed rule be applicable to new system planning and implementation acquisitions submitted for approval after 60 days following publication of the final rule.

HHS will evaluate the effectiveness of these proposed regulations, when they are finalized, in minimizing burden and improving States' accountability and planning for ADP projects. HHS will publish a Notice of Proposed Rule Making (NPRM) based on these findings. Unless extended or revised these regulations will expire on December 31, 1992.

Regulatory Impact Analysis

The Secretary has determined, in accordance with Executive Order 12291, that this rule does not constitute a major rule because it will not have an annual impact on the economy of $100 million or more, result in a major increase in costs or prices for consumers, any industries, any governmental agencies or any geographic regions, or otherwise meet the thresholds of the Executive Order.

Regulatory Flexibility Analysis

Consistent with the Regulatory Flexibility Act (Pub. L. 96-354) which requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses and other small entities, the Secretary certifies that this rule has no significant effect on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

Sections 95.611(b), 95.611(c) and 95.611(d) of this proposed rule contain information collection requirement in the form of Planning and Implementation APDs, Advance Planning Document Updates, Advance Planning Document Modifications and Annually Updated Advance Planning Documents. As required by 44 U.S.C. 3504(h) (the Paperwork Reduction Act of 1980) we will submit a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of these information collection requirements.

Other organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official designated for this purpose whose name appears in this preamble, and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3028), Washington, DC 20503, ATTN: Desk Officer for HHS.

(Catalog of Federal Domestic Assistance Program Numbers 13.645 Child Welfare Services—State Grants; 13.658, Foster Care Maintenance; 13.659, Adoption Assistance; 13.679, Child Support Enforcement Program; 13.714, Medical Assistance Program; 13.808, Assistance Payments-Maintenance Assistance; 13.810, Assistance Payments—State and Local Training).

List of Subjects

45 CFR Part 95

Claims, Computer Technology, Grant programs—health, Grant programs, Social programs, Social security.

45 CFR Part 205

Computer technology, Grant programs—social programs, Privacy, Public assistance programs, Reporting and recordkeeping requirements, Wages.

45 CFR Part 307

Child support, Computer technology, Grant programs—social programs,

Reporting and recordkeeping requirements.

Dated: May 5, 1987.

Otis R. Bowen,

Secretary Department of Health and Human Services.

PART 95—[AMENDED]

For the reasons set out in the preamble, 45 CFR Parts 95, 205 and 307 are proposed to be amended as follows:

1. The authority citation for Subpart F of Part 95 continues to read as follows:

Authority: Secs. 402(a)(5), 452(a)(1), 1102 and 1902(a)(4) of the Social Security Act, 42 U.S.C. 602(a)(5), 652(a)(1), 1302 and 1396a(a)(4); 5 U.S.C. 301.

2. Section 95.605 is amended by revising the definition of "Advance planning document" and "Automatic data processing services" and adding the following six new definitions in alphabetical order as follows:

§ 95.605 Definitions.

* * * * *

"Advance Planning Document" ("APD"), "Initial advance automatic data processing planning document" or "Initial APD" means a "Planning APD" or an "Implementation APD".

"Advance Planning Document Modification for the planning or implementation of ADP equipment or services" ("APDM") means a revision to the "Planning APD" or the "Implementation APD" that is significant enough to cause any of the following: A projected change in total approved project costs for enhanced matched projects; a projected change of $50,000 or 10%, whichever is less, in total-approved project costs for regular matched projects; a change of $50,000 or 10 percent, whichever is less, in the allocation of costs among project years; an extension of 10 percent or more in timeframes for projected milestones, or an extension of 90 days in timeframes for projected milestones, whichever is greater; a change in procurement activities; or, a significant change in system concept. The APDM must include an updated cost benefit analysis.

"Advance Planning Document Update for the planning or implementation of ADP equipment or services" or "APDU" means a revision to the "Planning APD" or the "Implementation APD" that is not significant enough to cause any of the following: A projected change in total approved project costs for enhanced matched projects; a projected change of $50,000 or 10%, whichever is less, in total-approved project costs for regular matched projects; a change of $50,000 or 10 percent, whichever is less, in the allocation of costs among project years; an extension of 10 percent or more in timeframes for projected milestones, or an extension of 90 days in timeframes for projected milestones, whichever is greater; a change in procurement activities; or, a significant change in system concept.

"Annually Updated APD" or "Annually updated advance automatic data processing planning document" must include:

(a) *Prior related documents.* Reference to the previously approved original APD and all changes to the APD (i.e., APDUs and APDMs).

(b) *Project activity status.* (1) Report of all major tasks and milestones in the approved "Planning APD", "Implementation APD" or previous "Annually Updated APDs" Project Activity Schedule for the past year. The "Annually Updated APD" includes all major tasks and milestones completed in the past year and degree of completion for unfinished tasks.

(2) Report of all project deliverables completed in the past year and degree of completion for unfinished products.

(3) Report of past and/or anticipated problems or delays in meeting target dates in the approved "Planning APD", "Implementation APD" orprevious "Annually Updated APD" Project Activity Schedule for the remainder of the project. The "Annually Updated APD" includes an explanation of the need to extend any major project target dates.

(i) Extensions of less than 10 percent or 90 days, which ever is less, to the target dates for major tasks and milestones, constitute APDUs and must be submitted as part of the "Annually Updated APD".

(ii) Extensions of more than 10 percent or 90 days, whichever is less, to the target dates for major tasks and milestones, constitute APDMs and require the approval of HHS in accordance with § 95.611(c)(1).

(c) *Project expenditures.* (1) A detailed accounting of all expenditures for project development over the past year.

(2) An explanation of the differences between projected expenses in the approved "PlanningAPD", "Implementation APD"or previous "Annually Updated APD" budget and actual expenditures for the past year.

(3) Revisions to the "Planning APD", "Implementation APD" or previous "Annually Updated APD" that are not significant enough to cause any of the following: A projected change in total approved project costs for enhanced matched projects; a projected change of $50,000 or 10%, whichever is less, in total approved project costs for regular matched projects; a change of $50,000 or 10 percent, whichever is less, in the allocation of costs among project years constitute APDUs, which must be submitted as part of the "Annually Updated APD".

(4) Revisions to the "Planning APD", "Implementation APD" or previous "Annually Updated APDs" that are significant enough to cause a projected change in total approved project costs for enhanced matched projects; a projected change of $50,000 or 10%, whichever is less, in total approved project costs for regular matched projects; a change of $50,000 or 10 percent, whichever is less, in the allocation of costs among project years constitute APDMs, which require approval in accordance with § 95.611(c)(1).

(5) Changes to the allocation basis in the APD's approved cost allocation methodology.

* * * * *

"Automatic Data Processing Services" or "ADP Services" means:

(a) Services to operate ADP equipment, either by agency, or by State or local organizations other than the State agency; and/or

(b) Services provided by private sources or by employees of the State agency or by State and local organizations other than the State agency to perform such tasks as feasibility studies, system studies, system design efforts, development of system specifications, system analysis, programming, system conversion and system implementation and includes the following:

(1) Systems Training,

(2) Systems Development,

(3) Site Preparation,

(4) Data Entry, and

(5) Personal services related to automated systems development and operations that are specifically identified as part of a "Planning APD" or "Implementation APD". As an example, a personal service would be the service of an "expert individual" to provide advice on the use of ADP software or hardware in developing a State automated management information system.

* * * * *

"General Systems Design" means a combination of narrative and diagrams describing the generic architecture of a system as opposed to the detailed architecture of the system. For example, a general systems design would include a systems diagram; narrative identifying overall logic flow and systems functions;

a description of equipment (including capacity) requirements; a description of other resource requirements which will be necessary to operate the system; a description of system performance requirements; and a description of the environment in which the system will operate including how the system will function within that environment (e.g. how workers will interface with the system).

* * * * *

"Implementation APD" means a written plan of action to acquire the proposed ADP services or equipment. The "Implementation APD" must include: A statement of needs and objectives; a requirements analysis; a feasibility study; a statement of alternative considerations including a transfer of an existing system and an explanation of why such a transfer is not feasible if another alternative is identified; a conceptual system design; a cost benefits analysis; a personnel resource statement indicating availability of qualified and adequate staff, including a project director to accomplish the project objectives; a detailed description of the nature and scope of the objectives to be undertaken and the methods to be used to accomplish the project; the proposed activity schedule for the project; a proposed budget including a detailed estimate of total project costs as well as a description of how this estimate was developed (Including a consideration of all possible Implementation APD activity costs (e.g. system conversion, computer capacity planning, supplies, training, and miscellaneous ADP expenses) when developing the projected project costs.); a statement indicating the period of time the State expects to use the equipment or system; an estimate of prospective cost distribution to the various State and Federal funding sources; the proposed procedures for distributing costs; and a statement setting forth the security and interface requirements to be employed and the backup and fallback contingency procedures available. Additional "Implementation APD" content requirements, for acquisitions for which the State is requesting enhanced funding, are contained at 45 CFR 205.37(a) (1) through (8), 45 CFR 307.15 and Part 11 of the State Medicaid Manual.[1]

* * * * *

[1] Copies are available from: Health Care Financing Administration, Room 416, East High Rise, 6325 Security Blvd., Baltimore, Md. 21207, 301-594-9050.

"Planning APD" means a document that requests FFP to accomplish the planning necessary for a State to determine whether it needs to acquire ADP equipment or services and to acquire information necessary to develop a General Systems Design (GSD) or "Implementation APD". The "Planning APD" is further defined as including: A description of the programmatic and organizational problem(s) and/or needs for which it is to be determined through the planning project, whether and what ADP equipment and/or services need to be acquired; the specific objectives to be accomplished by the planning project; a commitment to conduct a requirements analysis, feasibility study, alternatives analysis and cost benefit analysis, and to develop a conceptual system design and general systems design as part of the planning project; a description of the planning project organization, the project plan schedule of activities and deliverables; the required resources (both State and contractor); the planning project costs and budget; an estimate of the total project costs, including both the cost of the planning project and the cost of any eventual ADP equipment and/or services acquisition (the total project cost is to be used only for the purpose of determining whether or not the thresholds of § 95.611(a) are met); a description and schedule of procurement activities to be undertaken in support of the planning project; an estimate of prospective cost distribution to the various State and Federal funding sources; the proposed procedure for distributing costs to the participating Federal and State programs; the cost of the GSD should be specifically identified; and a statement, when enhanced funding is requested for the planning project, that eventual ADP equipment and/or services acquired to meet the need or problem which is under study, will meet the functional requirements necessary to be eligible for enhanced HHS funding. Additional "Planning APD" content requirements, for acquisitions for which the State is requesting enhanced funding, are contained at 45 CFR 205.37(a) (1) through (8), 45 CFR 307.15 and Part 11 of the State Medicaid Manual.

* * * * *

3. Section 95.611 is amended by revising paragraphs (a), (b), and (c); redesignating paragraph (d) as paragraph (e), and adding a new paragraph (d) as follows:

§ 95.611 Specific conditions for FFP.

(a) *General acquisition requirement.* A State shall obtain prior written approval from the Department as specified in paragraph (b) of this section, when it plans to acquire ADP equipment or services with proposed FFP at the regular matching rate that it anticipates will have total acquisition costs of $200,000 or more in Federal and State funds over any twelve-month period, or $300,000 or more in Federal and State funds for the total acquisition. A State shall obtain prior written approval from the Department as specified in paragraph (b) of this section, when it plans to acquire ADP equipment or services with proposed FFP at the enhanced matching rate authorized by 45 CFR 205.35, 45 CFR Part 307 or 42 CFR Part 433, Subpart C, regardless of the acquisition cost. A State shall also obtain prior written approval from the Department as specified in paragraph (b) of this section, when it plans to acquire noncompetitively from a nongovernmental source ADP equipment or services that cost more than $25,000 in Federal and State funds. The State shall submit requests (in the form of a "Planning APD" or "Implementation APD") for prior approval signed by the appropriate State official, to the Assistant Secretary for Management and Budget (ASMB), Department of Health and Human Services. The State shall send to the ASMB the original and one copy of the request for each HHS component, from which the State is requesting funding, and one for the ASMB. The State must also send one copy of the request directly to each Regional program component and one copy to the HHS Regional Director's office.

(b) *Specific prior approval requirements.* The State agency shall obtain prior written approval of the Department:

(1) For the "Planning APD" prior to entering into contractual agreements or making any other commitment for acquiring the necessary planning services;

(2) For the "Implementation APD" prior to entering into contractual agreements or making any other commitment for acquisition of ADP equipment or services. The Department may approve funding of the "Implementation APD" in phases. Under this approach the project, including an estimate of the total project cost would be approved initially in concept. Specific funding would be approved incrementally and contingent upon the State's achievement of specified project milestones.

(3) For the Request for Proposal (RFP) for enhanced funding if HHS specifically

required prior approval of the RFP when rendering a decision on the "Planning APD" or "Implementation APD".

(4) For the contract for regular and enhanced funding), or a contract amendment for enhanced funding, if HHS specifically required prior approval of the contract when rendering a decision on the "Planning APD" or "Implementation APD" and APDM.

The Department will not approve any planning or Implementation APD that does not contain all the data required as defined in § 95.605 including consideration of systems transfer.

(c) *Approval requirements.* The State agency must submit the following documents to the Department for approval of the following actions:

(1) APDMs, no later than 90 days after the occurrence of the project modification to be reported in the APDM; and,

(2) Contract amendments (for regular funding) that require approval as a result of the Department's specifically stated requirement in the APD Modification approval letter.

Failure to submit any of the above, to the satisfaction of the Department, may result in disapproval of the above documents.

(d) *Submission of other State documents.* States are required to submit contracts that did not require prior approval under § 95.611(b)(4), contract amendments that did not require approval under § 95.611(c), RFPs for enhanced funding that did not require prior approval, RFPs for regular funding and Annually Updated APDs for HHS information. Submission of these documents to HHS will be required as follows:

(1) State agencies are required to submit all RFPs for enhanced funding that did not require prior approval under § 95.611(b)(3) and RFPs for regular funding not later than when released to the public. RFPs for regular funding which are less than $50,000 and are an integral part of the approved APD need not be submitted.

(2) State agencies are required to submit all contracts that did not require prior approval under § 95.611(b)(4) and contract amendments that did not require approval under § 95.611(c), within 90 days of their effective date (i.e. signature of the State contracting officer). Contracts and contract amendments for regular funding which are less than $50,000 and are an integral part of the approved APD need not be submitted.

(3) Annually Updated APDs are to be submitted to the Department within 90 days after the annual anniversary of the "Planning APD' or "Implementation APD". Annually Updated APDs, for regular funded projects, need not be submitted to DHHS if there is a change of less than $25,000 or 10% of the annual budget, whichever is less, and a change of 10% or less in the total project costs, and delays in meeting project milestones of less than 90 days or 10% of milestone dates, whichever is less, and there has been no change in the system concept and procurement activities. Instead, for these projects the State would be required to submit an annual statement certifying that changes greater than the criteria listed above did not occur. The format for the certification in lieu of an Annually Updated APD (for regular funded projects) is as follows: In accordance with the provisions of § 95.611(d)(3), I certify that for the period _____ to _____, that the State/County project identified below did not experience a change exceeding $25,000 or 10% of the project's annual budget (whichever is less), and did not experience a change in total project costs greater than 10%. I further certify that all major tasks and milestones contained in the approved advance planning document are on schedule and have experienced delays of less than 90 days or 10% of the project milestone dates (whichever is less) and there has been no change in the system concept and procurement activities."

(4) Documents submitted under § 95.611(d) are deemed approved if HHS takes no action to disapprove within 45 days of receipt by the ASMB, unless HHS notifies the State that HHS needs additional time to evaluate the documents.

Failure to submit any of the above documents, to the satisfaction of the Department, may result in disapproval of the above documents.

* * * * *

4. Section 95.612 is added to read as follows:

§ 95.612 Disallowance of Federal Financial Participation (FFP).

If the Department finds that any management information system approved or modified under the provisions of § 95.611 fails to substantially comply with the criteria, requirements, and other undertakings prescribed in the approved advance planning document for a proper and efficient system, payment of FFP may be disallowed. In the case of a suspension of approval of an APD for enhanced funding, see 45 CFR 205.37(c), 307.40(a) and 307.35(d).

5. Section 95.621 is amended by adding a new paragraph (f) to read as follows:

§ 95.621 ADP reviews.

* * * * *

(f) *ADP system security requirements and review process*—(1) *ADP system security requirement.* State agencies are responsible for the security of all ADP projects under development, and operational systems involved in the administration of HHS programs. State agencies shall determine the appropriate ADP security requirements based on recognized industry standards or standards governing security of Federal ADP systems and information processing.

(2) *ADP security program.* State ADP Security requirements shall include the following components:

(i) Determination and implementation of appropriate security requirements as specified in paragraph (f)(1) of this section.

(ii) Establishment of a security plan and, as appropriate, policies and procedures to address the following areas of ADP security:

(A) Physical security of ADP resources;

(B) Equipment security to protect equipment from theft and unauthorized use;

(C) Software and data security;

(D) Telecommunications security;

(E) Personnel security; and

(F) Contingency plans to meet critical processing needs in the event of shortor long-term interruption of service; March 6, 1987 54.

(G) Emergency preparedness; and,

(H) Designation of an Agency ADP security Manager.

(iii) *Periodic risk analyses.* State agencies must establish and maintain a program for conducting periodic risk analyses to ensure that appropriate, cost effective safeguards are incorporated into new and existing systems. State agencies must perform risk analyses whenever significant system changes occur.

(3) *ADP system security reviews.* State agencies shall review the ADP system security of installations involved in the administration of HHS programs on a biannual basis. At a minimum, the reviews shall include an evaluation of physical and data security operating procedures, and personnel practices. State agencies shall provide copies of ADP system security review reports to HHS upon completion.

(4) Costs incurred for complying with provisions of § 95.621(f) (1) through (3) of this section are considered regular administrative costs which are funded at the regular match rate, unless they meet the requirements for enhanced funding.

(5) The security requirements of this section apply to all ADP systems used by State and local governments to administer programs covered under 45 CFR Part 95, Subpart F.

6. Section 95.699 is added to read as follows:

§ 95.699 Regulation evaluation.

HHS will evaluate the effectiveness of these regulations in minimizing burden and improving States' accountability and planning for ADP projects, and publish a Notice of Proposed Rule Making (NPRM) based on these findings. Unless extended or revised these regulations will expire on December 31, 1992.

PART 205—[AMENDED]

7. Section 205.35 paragraph (c) is revised to read as follows:

§ 205.25 Mechanized claims processing and information retrieval systems; definitions.

* * * * *

(c) The following terms are defined at 45 CFR Part 95, Subpart F, § 95.605:

"Annually updated advance automatic data processing planning document"; "Design" or "System Design"; "Development"; "Initial advance automatic data processing planning document"; "Installation"; "Operation"; and, "Software".

8. Section 205.37 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 205.37 Responsibilities of the Social Security Administration (SSA).

(a) SSA shall not approve the initial and annually updated advance automatic data processing planning document unless the document, when implemented, will carry out the requirements of the law and the objectives of Title IV-A (AFDC) Automated Application Processing and Information Retrieval System Guide.[2] The initial advance automatic data processing planning document must include:

* * * * *

PART 307—[AMENDED]

9. Section 307.1 paragraph (c) is revised to read as follows:

§ 307.1 Definitions.

* * * * *

(c). The following terms are defined at 45 CFR Part 95, Subpart F, § 95.605:

"Advance Planning Document"; "Annually updated APD"; "Design" or "System Design"; "Development"; "Initial APD"; "Installation"; "Operation"; "Requirements Analysis"; and, "Software".

9. Section 307.15(a) is revised to read as follows:

§ 307.15 Approval of advance planning documents for computerized support enforcement systems eligible for 90 percent FFP.

(a) Approval of an APD. Procedures for APD approval are specified at 45 CFR 95.611 (a) through (d). The Office shall not approve or recommend approval of the initial and annually updated APD unless the document, when implemented, will carry out the requirements of § 307.10 of this part and the conditions for APD approval specified in this section.

* * * * *

§ 307.15 [Amended]

10. Section 307.15 (c) and (d) are removed.

§ 307.20 [Amended]

11. Section 307.20 (b) and (c) are removed.

§ 307.30 [Amended]

12. Section 307.30(e) is removed.

March 26, 1987.

[FR Doc. 87-21342 Filed 9-18-87; 8:45 am]

BILLING CODE 4150-04-M

[2] Copies are available from Administrator, Family Support Administration, HHS North Bldg., Room 5627, Washington, DC 20201, 202-245-2074.

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, 174, 175, 176, 177, 178, and 179

[Docket HM-200, Advance Notice No. 87-6]

Hazardous Materials in Intrastate Commerce; Extension of Comment Period

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation (DOT).

ACTION: Extension of time to file comments.

SUMMARY: On June 29, 1987, RSPA published an advance notice of proposed rulemaking (ANPRM) in the **Federal Register** (52 FR 24195); Docket HM-200, Notice No. 87-6) which proposes to extend the application of the DOT's Hazardous Material Regulations (HMR; 49 CFR Parts 171 through 179) to all intrastate transportation of hazardous materials in commerce. In order to evaluate the proposals contained in the ANPRM, the National LP-Gas Association (NLPGA) has requested that the comment period of the ANPRM be extended until November 28, 1987. RSPA concurs with their request and this notice extends that comment period.

DATE: The date for filing the comments is extended from September 28, 1987 to November 28, 1987.

ADDRESS: Address comments to Dockets Unit (DHM-30), Office of Hazardous Materials Transportation, RSPA, U.S. Department of Transportation, Washington, DC 20590. Comments should identify the docket and notice number and be submitted, when possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The Dockets Unit is located in Room 8426 of the Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Office hours are 8:30 am to 5:00 pm Monday through Friday.

FOR FURTHER INFORMATION CONTACT: John A. Gale, Standards Division, Office of Hazardous Materials Transportation, 400 Seventh Street SW., Washington, DC 20590, phone: (202) 366-4488.

Issued in Washington, DC, on September 16, 1987, under authority delegated in 49 CFR Part 106, Appendix A.

Alan I. Roberts

Director, Office of Hazardous Materials Transportation.

[FR Doc. 87-21725 Filed 9-18-87; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 650

Atlantic Sea Scallop Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of an amendment to the fishery management plan and request for comments.

SUMMARY: NOAA issues this notice that the New England Fishery Management Council (Council) has submitted Amendment 2 to the Fishery Management Plan for Atlantic Sea Scallops for Secretarial review and is requesting comments from the public. copies of the amendment may be obtained from the address below.

DATE: Comments on the amendment should be submitted on or before November 13, 1987.

ADDRESS: All comments should be sent to Richard Roe, Regional Director, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930. Clearly mark the outside of the envelope "Comments on Amendment 2 to the Sea Scallop FMP."

Copies of the amendment are available upon request from Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1), Saugus, Massachusetts 01906.

FOR FURTHER INFORMATION CONTACT: Peter Colosi, Atlantic Sea Scallop FMP Coordinator, 617-281-3600.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) requires that each regional fishery management council submit any fishery management plan or amendment it prepares to the Secretary of Commerce (Secretary) for review and approval or disapproval. The Act also requires that the Secretary, upon receiving the plan or amendment, must immediately publish a notice that the plan or amendment is available for public review and comment. The Secretary considers any public comments in determining whether to approve the plan or amendment.

Amendment 2 specifies adjusted values for the 30-meat count management standard during the months of October through January that are more consistent with the actual, average meat weights, which decrease during the spawning season, and that serve as better threshold criteria for focusing mortality primarily on the entering and all older year classes. The purpose of this amendment is to restore the benefits to the industry that would otherwise have been temporarily withheld under the current management program, and thereby provide regulatory relief. The count management standard is redefined by Amendment 2 as follows: The number of scallops in a one-pint sample (on average) must be 30 or less during the months of February through September, and 33 or less during the months of October through January. Additionally, the Council intends that the duration and timing of the adjustment be based on the best information available. Accordingly, as new information is developed that might affect either the duration or the extent of the adjustment, the Council will recommend a regulatory change to be implemented by the Regional Director.

Regulations proposed by the council to implement this amendment are scheduled to be published within 15 days.

(16 U.S.C. 1801 et seq.)

Dated: September 16, 1987.

Henry R. Beasley,

Director, Office of International Fisheries, National Marine Fisheries Service.

[FR Doc. 87-21744 Filed 9-16-87; 4:50 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 52, No. 182
Monday, September 21, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Environmental Statement; East High Street Critical Area Treatment RC&D Measure, New York

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the East High Street Critical Area Treatment RC&D Measure, Saratoga County, New York.

FOR FURTHER INFORMATION CONTACT: Paul A. Dodd, State Conservationist, Soil Conservation Service, James M. Hanley Federal Building, 100 S. Clinton Street, Room 771, Syracuse, New York 13260, telephone (315) 423-5521.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Paul A. Dodd, State Conservationist, has determined that the preparation of an environmental impact statement is not needed for this project.

The measure concerns a plan to provide for reducing critical erosion along a road ditch in the Town of Malta which results from storm water runoff and seepage from adjacent farmland. The integrity of the adjacent highway will be assured through the installation of project measures. The planned works of improvement include the grading and shaping of the road shoulder and ditch sideslopes, installing filter fabric and placing rock riprap in the channel, and seeding and mulching of all disturbed areas.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment is on file and may be reviewed by contacting Paul A. Dodd.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provision of Executive Order 12372 which requires intergovernmental consultation with State and Local officials)

Paul A. Dodd,

State Conservationist.

Date: September 11, 1987.

[FR Doc. 87-21707 Filed 9-18-87; 8:45 am]
BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration,

Initiation of Antidumping and Countervailing Duty Administrative Reviews; France et al

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: September 21, 1987.

FOR FURTHER INFORMATION CONTACT: William L. Matthews or Richard W. Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5253/2786.

SUPPLEMENTARY INFORMATION:

Background

On August 13, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 32556) a notice outlining the procedures for requesting administrative reviews. The Department has received timely requests, in accordance with §§ 353.53a (a)(1), (a)(2), (a)(3), (a)(5), and 355.10(a)(1) of the Commerce Regulations, for administrative reviews of various antidumping and countervailing duty orders and findings.

Initiation of Reviews

In accordance with §§ 353.53a(c) and 355.10(c) of the Commerce Regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews no later than September 30, 1988.

Antidumping duty proceedings and firms	Periods to be reviewed
Industrial Nitrocellulose from France:	
SNPE	08/01/86-07/31/87
High Capacity Pagers from Japan:	
Matsushita	08/01/86-07/31/87
NEC	08/01/86-07/31/87
Steel wire rope from Japan:	
Chrysanthemum/Ataka	10/01/82-09/30/84
Chrysanthemum/C. Itoh	10/01/82-09/30/84
Chrysanthemum/Kent-Moore Japan	10/01/82-09/30/84
Chrysanthemum/Watanabe Trading	10/01/82-09/30/84
Daiyu Kogyo (Dia Steel Wire)	02/01/82-02/28/83
Dia. Kogyo	02/01/82-02/28-83
Dia Steel Wire/J. Gerber	03/01/75-03/31/78
Hannan/Far East	10/01/82-09/30/84
Hannan Rope	02/01/82-09/30/84
Hannan Wire Rope/Higashishiba	11/01/74-03/31/78
	10/01/82-09/30/84
Higashishiba	02/01/82-09/30-84
Kawatetsu Wire/Taisei Int'l	08/01/75-02/28/83
Kokoku/Ataka	01/01/77-09/30/80
Kokoku/C. Itoh	01/01/77-09/30/80
Kokoku/Itotaka	01/01/77-09/30/80
Kokoku/Kanematsu-Gosho	04/01/78-09/30/80
	10/01/83-03/31/84
Kokoku/Kohshin	01/01/77-09/30/80
10/01/82-03/31/84	
Kokoku/Maruka Machinery	04/01/78-09/30/80
Kokoku/Nichimen	04/01/78-09/30/80
Kokoku/Nissho-Iwai	04/01/78-09/30/80
	10/01/82-03/31/84
Kokoku/Shibamoto	01/01/77-09/30/80
Kokoku/Shinkyo Shoji (Shinsho)	04/01/78-09/30/80
	10/01/82-03/31/84
Kokoku/U.N.A.	04/01/78-09/30/80
Sanyo Bussan	02/01/82-02/28/83
Sanyo Shokai (Sanyo Co., Ltd.)/J. Gerber	10/01/75-03/31/79
Shinko Wire Rope/Kanematsu-Gosho	01/01/83-09/30/84
Shinyo Wire Rope/Nissho-Iwai	01/01/75-03/31/78
	10/01/82-09/30/84
Shinyo Ropes/Higashishiba	03/01/83-09/30-84
Shinyo Ropes/Vanguard	10/01/83-03/31/84

Antidumping duty proceedings and firms	Periods to be reviewed
Shinyo Ropes/Yutoku	10/01/82-09/30/84
Teikoku/C. Itoh	04/01/78-01/31/82
Teikoku/Kanematsu-Gosho	12/01/76-01/31/82
Teikoku/Okura Trading	12/01/76-01/31/82
Teikoku/Sakai	12/01/76-01/31/82
Teikoku/Shinko Shoji (Shinko Wire Corp.)	12/01/76-01/31/82
Teikoku/Showa Boeki	04/01/78-01/31/82
Teikoku/Taisei Int'l	12/01/76-01/31/82
Tokyo Rope/Alaska Boeki	10/01/74-09/30-81
Tokyo Rope/Ataka	04/01/78-09/30-84
Tokyo Rope/Mitsubishi Corp.	04/01/78-02/28/83
Union Wire Rope/Sanyo Bussan	02/01/82-09/30/84
Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, from Japan:	
Isuzu	08/01/86-07/31/87
Koyo Seiko	08/01/86-07/31/87
Nachi Fujikoshi	08/01/86-07/31/87
Nippon Seiko	08/01/86-07/31/87
Nissan	08/01/86-07/31/87
Toyota	08/01/86-07/31/87
Candles from the People's Republic of China: P & C Enterprises	02/19/86-07/31/87
Photo albums and filler pages from the Republic of Korea:	
Ace Trading	07/16/85-11/30/86
Ahjun	07/16/85-11/30/86
Bowon	07/16/85-11/30/86
Chungwoo	07/16/85-11/30/86
Costco Wholesale	07/16/85-11/30/86
Daechun Silup	07/16/85-11/30/86
Deho Industries	07/16/85-11/30/86
Eun Jeong Trading	07/16/85-11/30/86
G.I. Corporation	07/16/85-11/30/86
Gyeongjin	07/16/85-11/30/86
Hankook Trading	07/16/85-11/30/86
Hansang	07/16/85-11/30/86
Honey Stationery	07/16/85-11/30/86
J & C Int'l	07/16/85-11/30/86
Korea Trading Int'l	07/16/85-11/30/86
Lee Tung	07/16/85-11/30/86
Metro Industrial	07/16/85-11/30/86
Nam Doo Trading	07/16/85-11/30/86
Scandecor	07/16/85-11/30/86
Seoul General Stationery	07/16/85-11/30/86
Sinhan Trading	07/16/85-11/30/86
Sooter Studios	07/16/85-11/30/86
Sung Ill	07/16/85-11/30/86
Sungshim	07/16/85-11/30/86
Tradepower	07/16/85-11/30/86
Universal	07/16/85-11/30/86

Countervailing duty proceedings	Periods to be reviewed
Live Swine from Canada	04/01/86-03/31/87
Low-Fuming Brazing Copper Rod and Wire from New Zealand	08/01/86-07/31/87

Interested parties are encouraged to submit applications for administrative protective orders as early as possible in the review process.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and §§ 353.53a(c) and 355.10(c) of the Commerce Regulations (19 CFR 353.53a(c), 355.10(c)).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

Date: September 12, 1987.

[FR Doc. 87-21719 Filed 9-18-87;8:45am]

BILLING CODE 3510-DS-M

[A-412-602]

Antidumping Duty Order; Certain Forged Steel Crankshafts From the United Kingdom

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: In separate investigations concerning certain forged steel crankshafts (CFSC) from the United Kingdom (U.K.), the U.S. Department of Commerce (the Department) and the U.S. International Trade Commission (ITC) determined that CFSC from the U.K. are being sold at less than fair value and that imports of CFSC from the U.K. are materially injuring a U.S. industry.

Therefore, based on these findings, all unliquidated entries of CFSC from the U.K. which were entered, or withdrawn from warehouse, for consumption on or after May 13, 1987, the date on which the Department published its "Preliminary Determination" notice in the **Federal Register**, will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouses, for consumption made on or after the date of publication of this antidumping duty order in the **Federal Register**.

EFFECTIVE DATE: September 21, 1987.

FOR FURTHER INFORMATION CONTACT: Loc Nguyen, Office of Investigations, or William Matthews, Office of Compliance, 377-0167 or 377-3601, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: The products covered by this investigation are forged carbon or alloy steel crankshafts with a shipping weight between 40 and 750 pounds, whether machined or unmachined. These products are currently classified under items 660.6713, 660.6727, 660.6747, 660.7113, 660.7127 and 660.7147 of the *Tariff Schedules of the United States Annotated* (TSUSA). Neither cast crankshafts nor forged crankshafts with shipping weights of less than 40 pounds or greater than 750 pounds are subject to this investigation.

In accordance with section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b), on May 7, 1987, the Department made its preliminary determination that there was reason to believe or suspect that CFSC from the U.K. were being sold at less than fair value (52 FR 1800, May 13, 1987). On August 26, 1987, the Department made its final determination that these imports are being sold at less than fair value (52 FR 32951, September 1, 1987).

On September 9, 1987, in accordance with section 735(d) of the Act [19 U.S.C. 1673(d)], the ITC notified the Department that such imports are materially injuring a U.S. industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675). the Department directs U.S. Customs officers to assess, upon further advice by the administering-authority pursuant to section 736(a)(1) of the Act [19 U.S.C. 1673e(a)(1)], antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of CFSC from the U.K. These antidumping duties will be assessed on all unliquidated entires fo CFSC from the U.K. entered, or withdrawn from warehouse, for consumption on or after May 13, 1987, the date on which the Department published its "Preliminary Determination" notice in the **Federal Register.**

On and after the date of publication of this notice, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit of 14.67 percent, equal to the estimated weighted-average antidumping duty margin.

This determination constitutes an antidumping duty order with respect to CFSC from the U.K., pursuant to section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48). We have deleted from the Commerce Regulations, Annex I of 19 CFR Part 353, which listed antidumping duty findings and orders currently in effect. Instead, interested parties may contact the Central Records Unit, Room B-099, Import Administration, for copies of the updated list of orders currently in effect.

Notice of Review

In accordance with section 751(a)(1) of the Act [19 U.S.C. 1675(a)(1)], the Department hereby gives notice that, if requested, it will commence an administrative review of this order. For further information regarding this review, contact William Matthews at (202) 377-3601.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

September 15, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-21718 Filed 9-18-87; 8:45 am]

BILLING CODE 3510-DS-M

CONSUMER PRODUCT SAFETY COMMISSION

Interagency Committee on Cigarette and Little Cigar Fire Safety; Technical Study Group Meeting

AGENCY: Interagency Committee on Cigarette and Little Cigar Fire Safety.

ACTION: Notice of meeting.

SUMMARY: The Technical Study Group on Cigarette and Little Cigar Fire Safety will meet on September 21, 1987, in Washington, DC, to review and approve a draft of its final technical report.

DATE: The meeting will be on September 21, 1987, from 9:30 to 5:30 p.m.

DATES: The meeting will be in Room 503A, Hubert Humphrey Building, 200 Independence Avenue SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Terri Buggs, Office of Program Management and Budget, Consumer Product Safety Commission, Washington, DC. 20207; telephone (301) 492-6554.

SUPPLEMENTARY INFORMATION: The Cigarette Safety Act of 1984 (Pub. L. 98-567, 98 Stat. 2925, October 30, 1984; as amended by sec. 110, Pub. L. 99-591) created the Technical Study Group on Cigarette and Little Cigar Fire Safety to prepare a final technical report concerning the technical and commercial feasibility of developing cigarettes and little cigars with minimum propensity to ignite upholstered furniture and mattresses.

The Technical Study group will meet on September 21, 1987, to review and approve a draft of the final technical report specified by the Cigarette Safety Act of 1984, as amended. The meeting will be open to observation by the public, but only members of the Technical Study Group may participate in the discussion. Persons desiring to obtain a copy of the draft report to be considered at the meeting of September 21, 1987, should write or call Ms. Terri Buggs, Office of Program Management and Budget, Consumer Product Safety Commission, Washington, DC. 20207. The draft is available without charge, and may be changed by the technical report specified by the Cigarette safety Act, as amended.

Dated: September 15, 1987.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 87-21669 Filed 9-18-87; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Meeting; Community College of the Air Force (CCAF Board of Visitors)

The Community College of the Air Force Board of Visitors will hold a meeting on October 27, 1987 at 8:00 a.m., and on October 28, 1987 at 8:00 a.m., in the Conference Room, Room 203, Building 900, located at Randolph Air Force Base, San Antonio, Texas.

The meeting is open to the public.

Agenda items include: Briefings by Air Training Command (ATC) staff agencies on the ATC training mission to include a tour of selected CCAF system schools and agencies at Lackland Air Force Base, State of the College, CCAF Course Analysis and Degree Program Development, 1989-90 CCAF Catalog, CCAF's Interface with Professional Organizations, Documentation Fraud, Advancement and Assessment Procedures, and a briefing on Professional Military Education Curriculum Review.

For further information, contact Major Peter Macchia, Jr., (205) 293-7937, Community College of the Air Force, Maxwell Air Force Base, Alabama 36112-6655.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 87-21751 Filed 9-18-87; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement; European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval for the return of 10 kilograms of irradiated research reactor fuel of U.S. origin from the FRM reactor in the Federal Republic of Germany for reporcessing and storage at Department of Energy facilities. The return of highly enriched uranium (HEU) is consistent with U.S. nonproliferation policy in that it serves to reduce the amount of HEU abroad.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice. For the Department of Energy.

Date: September 8, 1987.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 87-21700 Filed 9-18-87; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement; European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval for the return of 20 kilograms of irradiated research reactor fuel of U.S. origin from the Orphee reactor in France for reprocessing and storage at Department of Energy Facilities. The return of highly enriched uranium (HEU) is consistent with U.S. nonproliferation policy in that it serves to reduce the amount of HEU abroad.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended,

it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Date: September 14, 1987.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 87-21701 Filed 9-18-87; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement; European Atomic Energy Community and Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Japan concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreements involve approval of the following retransfer: RTD/EU (JA)-95, for the transfer of 4.6 grams of uranium enriched to 19.72 percent in the isotope uranium-235 from Japan to the United Kingdom for irradiation and examination of fission gasses in gadolinium-uranium oxide fuels.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Date: September 14, 1987.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary For International Affairs and Energy Emergencies.

[FR Doc. 87-21702 Filed 9-18-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER86-674-001 et al.]

Electric Rate and Corporate Regulation Filings; Duke Power Co. et al.

September 16, 1987.

Take notice that the following filings have been made with the Commission:

1. Duke Power Co.

[Docket No. ER86-674-001]

Take notice that on August 24, 1987, Duke Power Company tendered for filing a refund report in compliance with Commission Order dated July 22, 1987.

Copies of this filing have been served upon all parties affected by this filing and North Carolina Utilities Commission, the Public Service Commission of South Carolina and Southeastern Power Administration.

Comment date: October 1, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Puget Sound Power

[Docket No. ER87-634-000]

Take notice that on September 11, 1987, Puget Sound Power (Puget) tendered for filing pursuant to 18 CFR 35.30(c) and revised Average System Cost (ASC) methodology which was approved by the Federal Energy Regulatory Commission effective October 1, 1984, the calculation of Average System Cost (ASC) for Puget for the exchange period effective February 1, 1987, through May 31, 1987.

Comment date: October 1, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Pacific Power & Light Co., An Assumed Business Name of PacifiCorp

[Docket No. ER87-633-000]

Take notice that on September 10, 1987, Pacific Power & Light Company (Pacific), an assumed business name of PacifiCorp, tendered for filing, in accordance with § 35.30 of the Commission's Regulations, Pacific's Revised Appendix 1 for the state of Oregon and Bonneville Power Administration's (Bonneville) Determination of Average System Cost (ASC) for the state of Oregon (Bonneville's Docket No. 5-A1-8701). The Revised Appendix 1 calculates the ASC for the state of Oregon applicable to the exchange of power between Bonneville and Pacific.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective January 8, 1987, which it claims is the date of commencement of service.

Copies of the filing were supplied to Bonneville, the Public Utility Commission of Oregon, and Bonneville's Direct Service Industrial Customers.

Comment date: October 1, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Southern California Edison Co.

[Docket No. ER87-635-000]

Take notice that on September 11, 1987, Southern California Edison Company (Edison) tendered for filing changes of monthly carrying charges under the provisions of the Power Sales Agreement among Edison, Arizona Public Service Company, Nevada Power Company, Tucson Gas and Electric Company (now known as Tucson Electric Power Company), and Arizona Power Pooling Association, Inc., as embodied in Rate Schedule FERC No. 92, and a change of rate for transmission service under the provision of the Edison-APPA Transmission Service Agreement as embodied in Rate Schedule FERC No. 93.

Edison requests waiver of the Commission's prior notice requirement and an effective date for these rate changes of January 1, 1985, January 1, 1986, and January 1, 1987, respectively, for Rate Schedule FERC No. 92 and an effective date of January 1, 1987, for Rate Schedule FERC No. 93.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: October 1, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. Southern California Edison Co.

[Docket No. ER87-636-000]

Take notice that on September 11, 1987, Southern California Edison Company tendered for filing pursuant to § 35.15 of the Federal Energy Regulatory Commission's Regulations under the Federal Power Act, a Notice of Cancellation of Rate Schedule FERC No. 184, Edison-Salt River Project Interruptible Transmission Service Agreement Between Southern California Edison Company and Salt River Project Agricultural Improvement and Power District (Agreement).

Inasmuch as all obligations under this Agreement have terminated, Edison respectfully requests waiver of prior notice requirements and asks the Commission to assign an effective date of April 26, 1987, to the cancellation of Rate Schedule FERC No. 184.

Copies of this filing have been served upon each person designated on the official service list in this proceeding.

Comment date: October 1, 1987, in accordance with Standard Paragraph E at the end of this document.

6. Southern California Edison Co.

[Docket No. ER87-637-000]

Take notice that on September 11, 1987, Southern California Edison Company tendered for filing, pursuant to § 35.15 of the Federal Energy Regulatory Commission's Regulations under the Federal Power Act, a Notice of Cancellation of Rate Schedule FERC No. 186, Edison-Citizens Short-Term Service Agreement Between Southern California Edison Company and Citizens Utilities Company (Agreement).

Inasmuch as all obligations under this Agreement have terminated, Edison respectfully requests waiver of prior notice requirements and asks the Commission to assign an effective date of October 1, 1986, to the cancellation of Rate Schedule FERC No. 186.

Copies of this filing have been served upon each person designated on the official service list in this proceeding.

Comment date: October 1, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21733 Filed 9-18-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP87-512-000 et al.]

Natural Gas Certificate Filings; Southern Natural Gas Co. et al.

Take notice that the following filings have been made with the Commission:

1. Southern Natural Gas Co.

[Docket No. CP87-512-000]

September 15, 1987.

Take notice that on August 27, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP87-512-000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing for a term to expire September 30, 1989, the transportation of natural gas for Arco Oil and Gas Company, Division of Atlantic Richfield Company (Arco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern proposes to transport on an interruptible basis up to 98,000 MMBtu of gas per day on behalf of Arco in accordance with the terms and conditions of a transportation agreement between Southern and Arco dated June 16, 1987. It is stated that the gas would be produced by Arco in Matagorda Island Blocks 703 and 710, offshore Texas. It is further stated that Arco would cause gas to be delivered to Southern for transportation at the existing subsea interconnection between the 16-inch lateral pipeline extending from Matagorda Island Block 703 to Matagorda Island Block 686 and the facilities of the Matagorda offshore Pipeline System (MOPS) located in Block 686.

Southern indicates that it would transport the gas through MOPS and make redeliveries to Arco at existing interconnections of the facilities of MOPS and Houston Pipeline Company, MOPS and Florida Gas Transmission Company, and MOPS and Northern Natural Gas Company all located in Refugio County, Texas. Southern has not indicated the ultimate users of this gas or the volume of gas to be delivered at the various redelivery points.

Southern proposes to charge Arco a transportation rate of 5.0 cents for each MMBtu of gas redeliverered by Southern. Southern also proposes to redeliver an equivalent quantity of gas less 0.7 percent of such amount which would be deemed to be used as company-use gas and system unaccounted-for gas losses, less any and all shrinkage, fuel or loss resulting from or consumed in the processing of gas and less Arco's pro-rata share of the fuel required to operate the compression facilities located in Matagorda Island Block 686.

Southern states that Arco and Southern have entered into a Settlement Agreement which resolves certain disputes regarding the proper interpretation, applicability, and enforceability of particular provisions of certain gas purchase contracts. It is further stated that the proposed transportation service is part of the consideration upon which Arco agreed to fully release Southern from liability for all post claims of Arco against Southern under such gas purchase contracts and to grant Southern considerable future relief under such contracts. Southern states that the terms and provisions of the Settlement Agreement are subject to an agreement of confidentiality between the parties. Southern states that the proposed transportation service would assist Arco in selling gas reserves on the spot market that might otherwise be shut-in.

Comment date: October 6, 1987, in accordance with Standard Paragraph F at the end of this notice.

2. Natural Gas Pipeline Co. of America

[Docket Nos. CP86-136-010, CP86-438-002]

September 15, 1987.

Take notice that on September 8, 1987, Natural Gas Pipeline Company of America (petitioner), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP86-136-010, a petition to amend the orders issued May 1, 1986, as amended November 7, 1986, and April 30, 1987, and in Docket No. CP86-438-002, a petition to amend the order issued March 13, 1987, pursuant to section 7 of the Natural Gas Act. Petitioner seeks authority to extend the term until April 30, 1989, of its transportation services for USI Chemicals Co., Inc. (USI) authorized at Docket Nos. CP86-136-000, as amended and CP86-438-000 and add a receipt point in Custer County, Oklahoma to its service for USI authorized at Docket No. CP86-438-000, all as more fully set forth in the petitions which are on file with the Commission and open to public inspection.

Petitioner indicates that in Docket No. CP86-136-000, as amended, it is currently authorized to transport up to a maximum of 25.0 billion Btu per day for USI for use at its Morris, Illinois plant until the earlier of April 30, 1988, or the date on which petitioner accepts a blanket certificate under Order No. 436.

Petitioner indicates that in Docket No. CP86-136-000, as amended, it is currently authorized to transport up to a maximum of 25.0 billion Btu per day for USI for use at its Morris, Illinois plant until the earlier of April 30, 1988, or the date on which petitioner accepts a blanket certificate under Order No. 436.

Petitioner proposes pursuant to Article VIII of the gas transportation agreement dated June 28, 1985, as amended, between petitioner and USI

(then known as Northern Petrochemical Company) to extend the term of the agreement until April 30, 1989. No other changes are proposed.

Petitioner indicates that in Docket No. CP86-438-000, it is currently authorized to transport up to a maximum of 18.0 billion Btu per day for USI for use at its Clinton, Iowa plant until the earlier of March 13, 1988, or the date on which Petitioner accepts a blanket certificate under order No. 436.

Petitioner now proposes pursuant to Article VIII of the gas transportation agreement dated March 21, 1986, between petitioner and USI (then known as Norchem, Inc.) to extend the term of the agreement until April 30, 1989.

Petitioner and USI also propose to add a receipt point in Custer County, Oklahoma to the service authorized at Docket No. CP86-438-000. Petitioner requests one other change in the previously authorized service. Petitioner indicates that under the present authorization, it reduces the volumes delivered to USI by an amount equal to fuel consumed and lost and unaccounted for as provided by the original transportation agreement. Petitioner not indicates that pursuant to an amendment dated June 25, 1987, petitioner would at its option either reduce the volumes of gas delivered to compensate for fuel and lost and unaccounted for or institute a monetary charge for fuel and lost and unaccounted-for gas calculated by multiplying the volume of gas that would otherwise be deducted by petitioner's weighted average cost of gas for the previous month. Petitioner also indicates it would credit to its Account No. 191 any revenues received from monetary charges for fuel. No other changes are proposed.

Comment date: October 6, 1987, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

3. Tennessee Gas Pipeline Co., a Division of Tenneco Inc.

[Docket No. CP87-132-001]

September 15, 1987.

Take notice that on August 31, 1987, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 251, Houston, Texas 77252, filed in Docket No. CP87-132-001 an amendment to the pending application in Docket No. CP87-132-000 pursuant to section 7(c) of the Natural Gas Act to request authority: (1) To change the facilities for which construction authorization is sought; (2) to allow Ocean State Power (Ocean State) to use capacity that may be temporarily available in Tennessee's Niagara Spur line in order to defer construction of a portion of the proposed facilities; and (3) to change the depreciation rate used to compute rates to Ocean State, all as more fully set forth in the amendment which is on file and open to public inspection.

In its pending application in Docket No. CP87-132-000, filed December 18, 1986, Tennessee states that it requests authority (1) to transport on a firm basis 50,000 dt equivalent of natural gas per day for Ocean State from the U.S.-Canadian border near Niagara, New York, to the facilities of Ocean State in Burrillville, Rhode Island, and (2) to construct pipeline, compression, and appurtenant facilities necessary to transport and deliver this quantity. Tennessee states, in its amendment, that it requests authority to add an additional 1,000 horsepower unit to its compressor station 230B in Niagara County, New York, and to modify certain existing measurement facilities due to a reduction in the pressure at which Ocean State has arranged to deliver the gas to Tennessee. In addition, Tennessee states that it proposes to delete from its application its proposal to construct and operate a total of 7.6 miles of pipeline looping in Wyoming and Livingston Counties, New York, due to a change in facilities design.

Tennessee further requests authority to allow Ocean State to use natural gas transmission capacity that may be temporarily available in Tennessee's existing 20-inch Niagara Spur line from Niagara to Tennessee's "200" main line at East Aurora, New York, thus allowing Tennessee to defer for one year construction of the incremental Niagara Spur facilities for which construction authority is requested, until the capacity of the Niagara Spur must be recalled for Tennessee's system supply. It is stated that, during the period in which such capacity on the Niagara Spur would be available to Ocean State, Tennessee proposes to include in Ocean State's rate a pro rata allocation of the incremental cost of the Niagara Spur Expansion Project, proposed by Tennessee in Docket Nos. CP87-131-000 and CP87-131-001. Tennessee proposes to remove this pro rata allocation and substitute the cost of service associated with the incremental Niagara Spur facilities upon completion of the incremental Niagara Spur facilities proposed herein.

Finally, Tennessee proposes to reflect, in computing rates to Ocean State, the same five percent depreciation rate on Tennessee's facilities dedicated to Ocean State that the Commission has authorized Ocean State to reflect in its rates to its electric power purchasers.

Tennessee estimates that the changes proposed in its amendment would reduce the project cost from $25,010,000 to $44,904,000.

Comment date: October 6, 1987, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

4. Texas Gas Transmission Corp.

[Docket No. CP87-205-001]

September 15, 1987.

Take notice that on September 4, 1987, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP87-205-001 an amendment to its pending application in Docket No. CP87-205-000 pursuant to section 7(c) of the Natural Gas Act to reflect a change in the proposed route and the related change in the proposed facilities for which authority to construct and operate is sought, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In Docket No. CP87-205-000, filed February 13, 1987, Texas Gas requests authority to initiate firm sales of natural gas to Citizens Gas & Coke Utility (Citizens Gas) of up to 122,125 MMBtu's per day and up to 30,000,000 MMBtu's on an annual basis, under Texas Gas' Rate Schedule G-3, commencing November 1, 1988. Texas Gas also requests authority, in Docket No. CP87-205-000, to construct and operate 61.83 miles of 16-inch pipeline loop, 60.28 miles of new 20-inch pipeline, and a meter station, and to reactivate a 12,000 horsepower compressor at a total estimated cost of $45,188,000.

In the instant proposal, Texas Gas states that it seeks to amend the application to make certain changes to the proposed facilities which are necessitated by a change in the proposed route of the pipeline. Texas Gas states that the facilities for which it now seeks authority to construct and operate are as follows:

(1) 59.01 miles of 16-inch pipeline loop paralleling Texas Gas' Hardinsburg-Bedford 16-inch pipeline at a cost of $18,136,000;

(2) 68.28 miles of 20-inch pipeline from the north end of Texas Gas' Hardinsburg-Bedford 16-inch pipeline in Lawrence County, Indiana, to the Citizens Gas system in Johnson County, Indiana, at a cost of $26,038,000;

(3) 3.42 miles of 20-inch pipeline loop paralleling Texas Gas' Hardinsburg-Bedford 16-inch pipeline in Breckinridge

County, Kentucky, at a cost of $1,362,000;

(4) Dual 12-inch orifice run sales measuring station and related facilities interconnecting with Citizens Gas in Johnson County, Indiana, at a cost of $445,000; and

(5) One 12,000 horsepower turbine/centrifugal compressor addition to Texas Gas' Hardinsburg compressor station in Breckinridge County, Kentucky, at a cost of $3,320,000.

Texas Gas estimates that the total cost of the amended facilities, including filing fees, would be $49,316,000. Texas Gas states that, even with the proposed increase in cost of the facilities, the annual incremental revenues generated by the proposed service to Citizens Gas would still exceed by approximately $1,500,000 the annual incremental costs of providing such service. It is stated that in all other respects the service as proposed in the original application remains unchanged.

Comment date: October 6, 1987, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

5. Trunkline Gas Co.

[Docket No. CP87-515-000]

September 15, 1987.

Take notice that on August 28, 1987, Trunkline Gas Company (Trunkline), 3000 Bissonnet, Houston, Texas filed in Docket No. CP87-515-000 an application pursuant to section 7(b) of the Natural Gas Act requesting authorization to abandon by sale to Exxon Corporation (Exxon) Trunkline's pipeline segment which extends from a point at Exxon's Platform in South Timbalier Block 170, offshore Louisiana to a point in South Timbalier Block 165, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Trunkline requests Commission authorization to abandon by sale to Exxon approximately 7.7 miles of 16-inch diameter pipeline, and appurtenances, right-of-way easements, permits and property interest related thereto. Trunkline states that Exxon has agreed to pay Trunkline net book value, to be calculated as of the time of transfer of title, less any incremental transportation charges associated with said lateral, if any paid by Exxon or any of its affiliates. The net book value of the subject facilities is $1,600,872, as of June 30, 1987, it is stated. Trunkline states that all gas supply to this pipeline belongs to Exxon and that it has no present or future use for this system. It is stated that the sale to Exxon will lower Trunkline's cost of service by reducing its rate base by relieving Trunkline of the necessity of maintaining these facilities.

Comment date: October 6, 1987, in accordance with Standard Paragraph F at the end of this notice.

5. Washington Natural Gas Co.

[Docket No. CP87-516-000]

September 15, 1987.

Take notice that on August 31, 1987, Washington Natural Gas Company, as Project Operator (Applicant), 815 Mercer Street, Seattle, Washington 98109, filed in Docket No. CP87-516-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity to increase the firm daily withdrawal rate, and to make other modifications, in operating the Jackson Prairie Storage Project (Storage Project) all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the Storage Project, located in Lewis County, Washington, adjacent to the mainline facilities of Northwest Pipeline Corporation (Northwest) provides the natural gas storage capacity for a winter season peaking service rendered by Northwest pursuant to Rate Schedule SGS-1 in its FERC Gas Tariff, First Revised Volume No. 1. Applicant further states that the Storage Project is owned in equal and individual interests by applicant, The Washington Water Power Company and Northwest. Applicant has been designated as Project Operator to operate the storage facility for the owners pursuant to the Gas Storage Project Agreement on file with the Commission as applicants Rate Schedule S-1, FERC Gas Tariff, Original Volume No. 1. 47 FPG 1527 (1972). According to applicant, during off-peak periods, Northwest tenders gas to the Project Operator at the connection between Northwest's mainline facilities and the Project facilities, and the gas is transported to the Storage Project and injected. Applicant states that during the withdrawal season, the Project Operator withdraws gas from the Storage Project pursuant to Northwest's directions and redelivers it to Northwest for further delivery by Northwest to customers who purchase the winter season peaking service under Northwest's Rate Schedule SGS-1.

Applicant further states that, under existing authorizations from the Commission, the Storage Project now operates at the levels of storage gas and service shown below:

Seasonal working gas:	12,800,000 Mcf
Cushion gas—Zone 2:	19,300,000 Mcf
Cushion gas—Zone 9:	2,000,000 Mcf
Zone 2 storage gas:	34,400,000 Mcf
Firm daily delivery rate:	325,000 Mcfd
Daily "Best Efforts" rate:	71,800 Mcfd

It is stated that, over the past several years, the conformance of the storage reservoir and the performance of the withdrawal wells have improved so that capability of the Storage Project exceeds presently certificated limits. Applicant states that it proposes to increase the firm daily withdrawal delivery rate from 325,000 Mdf/d to 375,000 Mcf/d without any additional facilities or additional cushion gas. Also applicant states that the firm daily withdrawal rate can now by maintained until 50% of the working gas inventory is withdrawn instead of 60% under present authorizations. It is stated that Northwest intends to file a related application providing for increased firm service under Rate Schedule SGS-1 because of the increase in the available firm daily withdrawal rate from 325,000 Mcf/d to 375,000 Mcf/d.

Applicant further states that the Storage Project owners propose to revise the Gas Storage Project Agreement to permit reinjections of gas during the normal winter season withdrawal period when operating conditions permit. Because Rate Schedule SGS-1 customers can inject gas for their own account, applicant states that it proposes to require that such gas be tendered for injection during the preceding injection season according to the following schedules: by June 30, no less than 35% of the maximum working gas quantity required during the subsequent withdrawal season; by August 31, not less that 80% of such requirement; and, by October 31, not less than 100% of such requirement.

Comment date: October 6, 1987, in accordance with Standard Paragraph F at the end of this notice.

Trunkline Gas Co.

[Docket No. CP87-518-000]

September 16, 1987.

Take notice that August 31, 1987, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251, filed in Docket No. CP87-518-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Trunkline proposes to transport up to 250,000 Mcf of natural gas per day on an interruptible basis on behalf of Exxon Corporation (Exxon). Trunkline states that it would receive natural gas from Exxon at the existing points of interconnection between the facilities of Trunkline and Exxon located in South Timbalier Block 165 offshore Louisiana, and in South Timbalier Block 171 offshore Louisiana. Trunkline further states that it would redeliver the gas on behalf of Exxon at various existing points of interconnection on Trunkline's system and at one point of interconnection near Katy in Harris County, Texas to be constructed by Exxon. Trunkline further explains that the gas to be transported is gas that would be released from prior commitment to Trunkline pursuant to an amendment dated July 17, 1987 to the sales contract between Trunkline and Exxon dated July 9, 1969.

Trunkline proposes to charge Exxon the maximum applicable rate pursuant to Rate Schedule PT. Trunkline states that the transportation agreement provides for rate flexibility so that Trunkline will offer Exxon a discount from the maximum applicable Rate Schedule PT rate pursuant to a take-or-pay settlement agreement between the parties. Trunkline requests that the Commission authorize the rate flexibility discount mechanism and waive the Section 154 tariff requirements necessary to effectuate such changes to the transportation rate.

Comment date: October 7, 1987, in accordance with Standard Paragraph F at the end of this notice.

7. Arkla Energy Resources, a division of Arkla, Inc.

[Docket No. CP87-508-000]

September 16, 1987.

Take notice that on August 25, 1987, Arkla Energy Resources, a division of Arkla, Inc. (AER), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP87-508-000, a request pursuant to §§ 157.211 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211 and 157.212) for authorization to construct and operate two sales taps, to enlarge an existing delivery point and to perform services associated therewith, under the certificate issued in Docket Nos. CP82-384-000 and CP82-384-001 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Specifically, AER requests authorization to construct and operate a sales tap and related facilities to Francis School in Ada, Oklahoma and to Edwin Ross in Wellington, Kansas. AER estimates that the sales tap for the school would deliver approximately 2,000 Mcf per year and approximately 10 Mcf on a peak day. Deliveries at the customer's sales tap are estimated to be 104 Mcf per year and 2 Mcf on a peak day and such volumes would be used for residential purpose, it is explained. AER estimates the cost of installing the facilities ot be $1,350.

AER also proposes to enlarge an existing tap on its Line AM-46 in Section 32, Hempstead County, Arkansas, to serve future industrial customers in the Hope Industrial Park, which would use approximately 124,250 Mcf per year. AER states that the cost of enlarging the tap is estimated to be $14,692.

Comment date: October 7, 1987, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraph

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, futher notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21732 Filed 9-18-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF87-637-00 et al.]

Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, Etc.; Owl Energy Resources et al.

Comment date: Thirty days from publication in the Federal Register, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Owl Energy Resources

[Docket Nos. QF87-637-000, et al.]

September 15, 1987.

On September 1, 1987, Owl Energy Resources (Applicant), of 2495 Campus Drive, Suite 203B, Irvine, California 92715, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located on Staten Island, New York. The facility will consist of a biomass-fired steam generator and an extraction/condensing steam turbine generator. Thermal energy recovered from the facility will be used in the Proctor & Gamble Manufacturing Company's Port Ivory plant for production of soap and orange juice. The primary energy source for the facility will be biomass in the form of wood chips. The maximum net electric power production capacity will be 24 MW. Installation of the facility will be begin in January 1988.

2. Owl Energy Resources

[Docket No. QF87-637-001]

September 15, 1987.

On September 1, 1987, Owl Energy Resources (Applicant), of 2495 Campus Drive, Suite 203B, Irvine, California 92715, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located on Staten Island, New York. The facility will consist of a biomass-fired steam generator and an extraction/condensing steam turbine generator. The primary energy source for the facility will be biomass in the form of wood chips. The maximum net electric power production capacity of the facility will be 24 MW. Installation of the facility will begin in January 1988.

3. Crescent Hotels

[Docket No. QF87-642-000]

September 16, 1987.

On September 4, 1987, Crescent Hotels (Applicant), of 2735 East Camelback Road, Phoenix, Arizona 85016, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Scottsdale, Arizona. The facility will consist of a reciprocating engine generator and heat recovery equipment. The thermal energy recovered from the facility will be used for domestic water heating and space cooling. The net electric power production capacity will be 320 kilowatts. The primary energy source will be natural gas. Construction of the facility began in September 1987.

4. Methane Resource Development, Inc.

[Docket No. QF87-639-000]

September 16, 1987.

On September 3, 1987, Methane Resource Development, Inc. (Applicant), of 79 West Monroe Street, Suite 700, Chicago, Illinois 60603 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Albion, New York. The facility will consist of a gas fired internal combustion generator. The electric power production capacity will be 3 megawatts. The primary energy source will be biomass in the form of landfill methane gas. There are no plans to use any natural gas, oil or coal.

5. Western Power Group Unit II, Inc.

[Docket No. QF87-640-000]

September 16, 1987.

On September 3, 1987, Western Power Group Unit II, Inc. (Applicant), of 620 Newport Center Drive, Suite 820, Newport Beach, California 92660 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Imperial Valley, California. The net electric power production capacity will be 15 megawatts. The primary energy source will be biomass in the form of agricultural waste products.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21734 Filed 9-18-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL87-61-000]

Filing; Wabash Valley Power Association, Inc. v. Public Service Co. of Indiana, Inc.

September 15, 1987.

Take notice that on August 25, 1987, Wabash Valley Power Association, Inc. (Wabash Valley) tendered for filing pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, and to Rule 206 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedure, 18 CFR 385.206, a complaint against Public Service Company of Indiana, Inc. as follows: (i) A reduction in rates for wholesale firm power supplied to Wabash Valley by Public Service Company of Indiana, Inc. (PSI), (ii) modification of the rate design by which those rates are billed and (iii) for relief from anti-competitive (price-squeeze) behavior by PSI.

Wabash Valley asserts that due to recent changes in circumstances and the increasingly competitive environment for distribution service to retail customers, the current rates charged by PSI to Wabash Valley under Service Schedule C of the Power Coordination Agreement between PSI and Wabash Valley by authority of this Commission (Service Schedule C) are excessive, unjust, unlawfully anti-competitive, and therefore unreasonable.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 15, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21735 Filed 9-18-87; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Special Refund Procedures; Berry Holding Co. et al.

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the procedures for disbursement of $19,773,783.59 (plus accrued interest) obtained from four crude oil producers: Berry Holding Company, *et al.*, Saxon Oil Company, Armstrong Petroleum Corporation, *et al.*, and Marathon Petroleum Company, Case Nos. KEF-0027, KEF-0028, KEF-0041 and KFX-0023. The OHA has determined that the funds will be distributed in accordance with the DOE's Statement of Modified Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986).

DATE AND ADDRESS: Applications for refund must be filed by December 31, 1987 and should be addressed to: Subpart V Crude Oil Refunds, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue

SW., Washington, DC 20585. All applications should be printed or typed.

FOR FURTHER INFORMATION CONTACT: Thomas Wieker, Deputy Director, or Irene Bleiweiss, Attorney, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–2390 (Wieker) or, (202) 586–2400 (Bleiweiss).

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy (DOE), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order sets forth the procedures that the DOE has formulated to distribute monies obtained from four crude oil producers: Berry Holding Company, *et al.*, Saxon Oil Company, and Armstrong Petroleum Corporation, *et al.*, and Marathon Petroleum Company. Each company remitted monies to the DOE to settle possible pricing violations with respect to its sales of crude oil. Ecah firm's payment is being held in an interest-bearing escrow account pending distribution by the DOE.

The DOE has decided that distribution of the monies received from the four companies will be governed by the DOE's Statement of Modified Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986). That policy states that crude oil overcharge monies will be divided among the States, the Federal government, and eligible purchasers of refined products.

Refunds to the States will be distributed in proportion to each State's consumption of petroleum products.

Refunds to eligible purchasers will be based on the number of gallons of refined products which they purchased and the extent to which they can demonstrate injury. Applications for refund must be filed by December 31, 1987 and should be sent to the address set forth at the beginning of this notice. The information that a claimant should include in its application is explained in section III of the Decision and Order.

Date: September 14, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

September 14, 1987.

Decision and Order of the Department of Energy; Implementation of Special Refund Procedures

Names of Cases: Berry Holding Company, *et al.*

Dates of Filings: April 11, 1986, *et al.*

Case Numbers: KEF–0027, *et al.*

This Decision and Order establishes the procedures the Office of Hearings and Appeals (OHA) will use to distribute $19,773,783.59 plus interest received from the four companies identified in the Appendix. Each firm remitted monies to the Department of Energy (DOE) to settle alleged crude oil overcharges.[1] The requirements which an applicant must meet to be eligible for a refund appear in Section III of this Decision.

I. Background

A. Proposed Decision and Orders

In July 1986, the OHA issued Proposed Decisions and Orders announcing tentative refund procedures for the monies received from three of the four companies involved in this proceeding. The Proposed Decisions were published in the **Federal Register** and the OHA solicited comments to the proposed procedures. 51 FR 27083 (July 29, 1986) (Armstrong); 51 FR 27595 (August 1, 1986) (Berry and Saxon). A Proposed Decision in the fourth case, Marathon Petroleum Company, was issued in April 1986. A final decision establishing Marathon refund procedures and evaluating comments received was issued on June 11, 1986. *Marathon Petroleum Company*, 14 DOE ¶ 85,269 (1986). Under the Decisions issued in each of the four cases, DOE's restitutionary policies concerning crude oil overcharges would govern distribution of the funds. At that time, the DOE Policy was to hold all crude oil overcharge funds in escrow to afford Congress the opportunity to select a means of making indirect restitution to injured parties. *See* 50 FR 27400 (July 2, 1985) (the 1985 Policy). If Congress did not act, the 1985 Policy contemplated that the funds would be deposited in the U.S. Treasury.

B. The Modified Statement of Restitutionary Policy

Since the dates of the four Decisions, the DOE modified its crude oil policy. In its *Modified Statement of Restitutionary Policy* (hereinafter MSRP), issued in conjunction with a federal District Court's approval of a settlement agreement in *The DOE Stripper Well Litigation*, the DOE announced that crude oil overcharge monies will be divided among the states, the federal government, and eligible purchasers of refined products. 51 FR 27899 (August 4, 1986).

The MSRP provides that the DOE will use the procedures codified at 10 CFR Part 205, Subpart V to conduct a crude oil refund process. Up to 20 percent of the alleged crude oil violation amounts may be reserved initially for direct restitution. The remaining 80 percent of the funds will be disbursed to the state and federal governments for indirect restitution. After all valid claims are paid, any remaining funds from the 20 percent reserve will also be divided between the state and federal governments. The federal government's share of the funds will ultimately be deposited into the general fund of the Treasury of the United States.

On August 8, 1986, the OHA announced its intention to follow the MSRP. *Notice of Order Implementing Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges*, 51 FR 29689 (August 20, 1986).[2]

C. The Marathon Proposed Supplemental Order

In October 1986, we issued a Proposed Supplemental Order expressing the OHA's intention to distribute the Marathon crude oil monies in accordance with the MSRP.[3] The OHA proposed to reserve the full 20 percent of the Marathon crude oil monies for direct restitution to claimants. We also proposed to require refund applicants to document their purchase volumes of petroleum products during the period of price controls and to prove that they were injured by the alleged overcharges. However, the Proposed Supplemental Order stated that end-users of petroleum products whose businesses are unrelated to the petroleum industry will be presumed to have been injured and therefore, need only submit documentation of their purchase volumes of refined petroleum products during the control period. Finally, we proposed to calculate refunds on the basis of a per gallon refund amount derived by dividing the total amount of

[1] Berry Holding Company and its affiliates Berry & Ewing and Surprise Oil Company (hereinafter "Berry") entered into an agreed Final Judgement on December 15, 1983. Saxon Oil Company (hereinafter "Saxon") signed a Consent Order on December 31, 1984. Armstrong Petroleum Corporation and the City of Newport Beach (hereinafter "Armstrong") entered into a Consent Order on June 4, 1985. Marathon Petroleum Company (hereinafter "Marathon") entered into a Consent Order on January 30, 1986.

[2] The OHA considered comments to this action in a Notice published in the **Federal Register** on April 10, 1987. 52 FR 11737.

[3] Marathon remitted $21,082,535.86 to settle alleged violations concerning both crude oil and refined products. The OHA determined that $8,433,014 of the Marathon monies were attributable to alleged crude oil violations and this proceeding concerns only the crude oil portion of the Marathon Settlement. *See Marathon*, 14 DOE at 88,506. As of May 18, 1987, $656,276.29 in interest accrued on the crude oil portion.

crude oil overcharge funds received from Marathon by the total consumption of petroleum products in the United States during the period of price controls. The OHA solicited comments regarding the tentative distribution process set forth in the Marathon Proposed Supplemental Order. 51 FR 40497 (November 7, 1986).

II. Comments Received And Procedures Adopted

In response to the three Proposed Decisions issued before the MSRP, we received comments from a group of states. The states urge the OHA to follow the MSRP rather than the previous 1985 Policy. We agree that the MSRP governs the monies in these cases.

In response to the Marathon Proposed Supplemental Order, issued after the MSRP, we received comments from groups of states, foreign ocean carriers, foreign airlines, and Philip Kalodner, counsel for potential claimants. The comments all suggest methods which the OHA should use to distribute crude oil monies under the MSRP. The comments are concerned with issues in four general areas: (i) Whether 20 percent of the Subpart V crude oil funds is necessary to satisfy crude oil refund claims; (ii) the timing of refund payments; (iii) the calculation of refund amounts in crude oil proceedings; and (iv) standards for showing injury. The issues raised by the commenters were addressed in our recent decision in *A. Tarricone, Inc.*, 15 DOE § 85,495 (1987) (*Tarricone*), and in our April 1987 **Federal Register** notice, 52 FR 11737 (April 10, 1987). We will not reiterate that discussion here.

In a supplemental filing Philip Kalodner raises two issues that merit discussion.[4] First, Mr. Kalodner points out that the OHA's decision in *Tarricone* established a presumption that end-users of refined products were injured as a result of crude oil overcharges. Mr. Kalodner asks the OHA to clarify whether this presumption is rebuttable or irrebuttable. The end-user presumption is intended to be rebuttable. Thus, any party who contends that a particular end-user applicant suffered no compensable injury will have the opportunity to so prove. 10 CFR § 205.284(b); *See In Re: The Department of Energy Stripper Well Litigation*, M.D.L. 378. Opinion and Order of Judge Frank Theis (D. Kan. August 17, 1987) (discussing and approving the OHA's end-user presumption).

Any person who wishes to file comments in a particular crude oil refund case may do so within thirty days of the date the application was filed with the OHA or by October 15, 1987 whichever occurs later. To ensure that the comments are considered, a commenter should follow DOE procedures. *See generally* 10 CFR Part 205, Subpart A ("General Provisions"). These procedures include: (1) Referring to a particular case number in each submission; (2) for each case, filing two copies of the comments with the OHA along with proof of service on the application itself; and (3) submitting comments directed to the specific facts of each case. Any comments that purport to be filings in multiple cases will be dismissed. *See* 10 CFR 205.9(g). Due process requires that the refund applicant and other potentially aggrieved persons be served with a copy of the comments and be provided an opportunity to respond. Comments that are not served on the applicant and interested parties listed in the OHA public case file will be dismissed.

Mr. Kalodner also expresses concern that enough funds be reserved to satisfy claims for direct restitution. He suggests that disbursement of the residual portion of the 20 percent reserve to the state and federal governments be deferred until Subpart V claimants have received maximum refunds on the funds available. Mr. Kalodner's comments are premature. The OHA is not yet in a position to evaluate the whether the full twenty percent reserve will always be necessary to satisfy claims. Were we to accept Mr. Kalodner's approach at this time, it could unnecessarily delay future refunds to the state and federal governments for indirect restitution. Although at present, it appears that the full twenty percent is necessary to satisfy claims, the percentage needed may vary. In accordance with the Stripper Well Settlement Agreement and MSRP, the OHA reserves the right to adjust the reserve downward and/or upward as the circumstances may warrant, provided that the OHA will not reserve greater than twenty percent. *See Settlement Agreement*, IV(B)(6); *Modified Statement of Restitutionary Policy*, 51 FR 27899 at 27902 (August 4, 1986).

After considering the comments submitted, we conclude that the monies received from the four firms should be distributed in accordance with the MSRP, using the procedures described in *Tarricone*. In that case we decided to: (i) Reserve 20 percent of the funds for direct restitution; (ii) determine the logistics of payments to approved claimants at a later date; (iii) use a volumetric approach to calculate refunds; and (iv) requires claimants, other than certain end-users and certain utilities, to prove injury in order to be eligible for a refund.

The OHA will use the DOE refund regulations codified at 10 CFR Part 205, Subpart V to distribute the 20 percent reserve. Refunds to eligible petroleum purchasers will be based on a per gallon refund amount derived by dividing the crude oil overcharge monies received by the total U.S. consumption of petroleum products during the period of Federal petroleum price controls.[5] *Mountain Fuel Supply Co.*, 14 DOE ¶ 85,475 at 88,867–68. The total principal volumetric refund amount for this proceeding is $0.0000098 per gallon. Interest accrued on the funds through August 31, 1987 will increase this amount to $0.000011 per gallon. Further information concerning application procedures is explained in Section III below.

III. Refunds to Eligible Purchasers

A. General Information for All Applicants

Persons who believe they were injured by crude oil overcharges may file claims for direct restitution by December 31, 1987. Claims should be in the form of an Application for Refund following the guidelines explained in section III(A)(1) End-users, utilities, retailers, and resellers who purchased refined petroleum products should also pay particular attention to the requirements applicable to those groups which are explained in Section III(B). Purchasers of crude oil should note the requirements discussed in section III(C).

1. *Applications for refund.* In order to receive a refund from the crude oil funds involved in this Decision, a claimant will be required to file an application for refund. Applicants may complete an application form available from the OHA or may instead submit the material outlined below in the form of a

[4] Mr. Kalodner's supplemental filing also raises two issues which we need not discuss at length. The possibility that monies from pre-existing crude oil Subpart V cases may be included in our calculations was addressed at 52 FR 11739 (April 10, 1987). Mr. Kalodner also argues that refunds to government-related applicants be delayed. The OHA will not unnecessarily delay a refund proceeding. 10 CFR 205.288. Even if Mr. Kalodner were to show that the delay is necessary, the present proceeding is not the proper forum for Mr. Kalodner's argument. If Mr. Kalodner wishes to object to a specific applicant's claim, he may file comments in the case which considers that claim. 10 CFR 205.284(b).

[5] It is estimated that 2,020,997,335,000 gallons of petroleum products were consumed in the United States during the period August 1973 through January 1981. *Mountain Fuel Supply Co.*, 14 DOE ¶ 85,475 at 88,868 n. 4. (1986).

letter. The letter should be clearly labelled "Application for Crude Oil Refund" and should include the following information:

(1) Identifying information including: (a) The applicant's name, (b) the applicant's address, (c) the applicant's social security number or employer identification number, (d) an indication whether the applicant is a corporation, (e) the name and telephone number of a person to contact for additional information, and (f) the name and address of the person who should receive the refund check;

(2) A short description of the applicant's business and use of petroleum products. If the applicant did business under more than one name or a different name during the period of price controls, the applicant should list those names;

(3) A statement identifying the petroleum products which the applicant purchased during the period August 19, 1973 through January 27, 1981, the number of gallons of each product purchased, and the total number of gallons on which the applicant bases its claim;

(4) An explanation of how the applicant obtained the volume figures above, and an explanation of its method of estimation if the applicant used estimates to determine its purchase volumes;

(5) A statement that neither the applicant, its parents, subsidiaries, affiliates, successors nor assigns has waived any right it may have to receive a refund in these cases (e.g., that none of these firms has a claim to monies in the Stripper Well escrows);

(6) If the applicant is not an end-user whose business is unrelated to the petroleum industry, a showing that the applicant was injured by the alleged overcharges (i.e., that the applicant did not pass the overcharges through to own customers); and

(7) If the applicant is a regulated energy utility, a certification that it will notify the state utility commission of any refund received and that it will pass on the entirety of its refund to its retail customers.

The application should be typed or printed and mailed in duplicate to the following address: Subpart V Crude Oil Overcharge Refunds, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

The DOE is required to maintain a Public Reference Room where submissions are made available for public inspection. To ensure that no confidential material is placed in the Public Reference Room, an applicant must delete material it considers confidential from two copies of its filing and forward these copies together with an undeleted version to the Office of Hearings and Appeals. If there is nothing confidential in an applicant's filing, the applicant should so indicate and provide one additional copy of its submission. Failure to claim confidential treatment will result in disclosure of the entire filing.

Applicants may be required to submit additional information to document their refund claims. The deadline for filing refund applications is December 31, 1987. Applicants who file a crude oil refund application by that date will be considered for all crude oil monies available for distribution at that time. Therefore, any applicant who has already filed a refund application in any Subpart V crude oil refund proceeding need not file another application. That application will be deemed to be filed in these proceedings. Depending upon the type of refund applications received, we may establish a minimum refund amount for eligible claimants. *See Tarricone*, 15 DOE at 88,898.

B. Injury Requirements For Purchasers of Refined Petroleum Products

1. *End-users and regulated utilities.* End-users of petroleum products whose businesses are unrelated to the petroleum industry will be presumed to be injured. *Greater Richmond Transit Company*, 15 DOE ¶85,028 (1986). Regulated energy utilities will also be presumed injured, provided that each utility applicant must submit documentation that it will notify the appropriate regulatory authority of any refund received, and must provide an explanation of how the refund, when received, will be passed on to its customers. *Tarricone*, 15 DOE ¶88,897–98.

2. *Resellers and retailers.* Reseller and retailer purchasers of petroleum products must submit detailed evidence of injury, and may not rely upon the presumptions of injury utilized in refund cases involving refined petroleum products. They can, however, use econometric evidence of the type used in the OHA Report on Stripper Well Oil Overcharges, 6 Fed. Energy Guidelines ¶90,507. Furthermore, as noted in *Tarricone*. resellers and retailers who were spot purchasers will not be subject to the presumption of non-injury applicable in refined product refund cases.

C. Injury Requirements For Purchasers of Crude Oil

Purchasers of crude oil may also apply for refunds in this proceeding. Because the pricing regulations for crude oil specified ceiling prices based on the locality from which the crude oil was produced rather than on the basis of the cost banks of the seller, the DOE has traditionally applied a more individualized standard of injury for purchasers of crude oil than it has for purchasers of refined petroleum products. *See Tenneco Oil Company*, 9 DOE ¶82,538 at 85,206 (1982). In addition, it is especially difficult for a crude oil purchaser who participated in the Entitlements Program to demonstrate injury. *Id.* However, a crude oil purchaser who is eligible to participate in this proceeding may attempt to affirmatively demonstrate that it has been injured by an alleged crude oil violation and that it should therefore receive a refund. *See Tenneco*, 9 DOE at 85,206.

D. Parties With Claims to Stripper Well Escrow Funds

Pursuant to the Stripper Well Settlement Agreement, escrow funds were established for Refiners, Resellers, Retailers, Airlines, Agricultural Cooperatives, Utilities, Surface Transporters, and Rail & Water Transporters. Parties who submitted valid waivers to any of those M.D.L. 378 escrows have waived their rights to apply for crude oil refunds under Subpart V and therefore are ineligible to apply for a refund under the present proceeding.

IV. Refunds to the State and Federal Governments

In accordance with the MSRP, 80 percent of the funds in these proceedings ($15,819,026.87) plus any portion of the 20 percent reserve which is not distributed, will be disbursed to the State and Federal governments for indirect restitution. The States and the Federal Government will divide these funds equally.[6] We will direct the DOE's Office of the Controller to segregate the $15,819,026.87 available and to distribute half of that amount ($7,909,513.43) plus appropriate interest immediately to the Federal Government. The other half of the funds plus appropriate interest will be placed in an interest bearing escrow account and will be distributed to the States pursuant to a future directive of the OHA. Including interest accrued as

[6] In previous crude oil implementation orders we noted that the States would receive one-fourth of the 80 percent and the Federal Government would receive three-quarters of that amount in order to repay an advance the Federal Government gave the States. The States have fully repaid the advance and, therefore, the States and Federal Government will share the 80 percent in this proceeding equally.

of August 31, 1987, the State and Federal governments will both receive $9,070,862.04. The share or ratio of the funds in the State account which each State will receive is based on each State's consumption of petroleum products during the period of price control. These funds are subject to the same limitations and reporting requirements as all other crude oil monies received by the States under the Settlement.

It is therefore ordered that:

(1) Applications for Refund from the crude oil overcharge funds remitted by the firms identified in the Appendix to this Decision and Order may now be filed.

(2) All applications submitted pursuant to paragraph (1) above must be filed no later than December 31, 1987.

(3) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Office of the Controller, Department of Energy, shall take all steps necessary to transfer as provided in Paragraphs (4), (6), and (7) below the total current net crude oil equity as of August 31, 1987, from each of the subaccounts (within the Deposit Fund Escrow Account maintained by the DOE at the Treasury of the United States) listed in the Appendix to this Decision and Order.

(4) The Director of Special Accounts and Payroll shall transfer $9,070,862.04 of the funds obtained pursuant to Paragraph (3) above into a subaccount denominated "Crude Tracking-States," Number 999DOE003W0. The Director of Special Accounts and Payroll shall disburse to each state, upon future directive from the OHA, its share of that amount, determined pursuant to the calculation of ratios for distribution to states and territories set forth in the Settlement Agreement, plus interest. Interest shall be calculated from September 1, 1987 to the date of disbursement on funds received from Berry, Saxon, and Armstrong. Interest shall be calculated from May 19, 1987 to the date of disbursement on crude oil funds received from Marathon. Disbursements to the states shall be accomplished pursuant to instructions previously received from each state in the Stripper Well Exemption Litigation refund proceeding.

(5) The funds distributed pursuant to Paragraph (4) above are subject to the same limitations and reporting requirements as are all other crude oil moneys received by the states under the Settlement Agreement.

(6) The Director of Special Accounts and Payroll shall transfer $9,070,862.04 plus appropriate interest on the funds obtained pursuant to Paragraph (3) above into a subaccount denominated "Crude Tracking-Federal," Number 999DOE002W0. Interest shall be calculated from September 1, 1987 to the date of disbursement on funds received from Berry, Saxon, and Armstrong. Interest shall be calculated from May 19, 1987 to the date of disbursement on crude oil funds received from Marathon.

(7) The Director of Special Accounts and Payroll shall transfer $4,535,431.01 appropriate interest on the funds obtained pursuant to Paragraph (3) above into a subaccount denominated "Crude Tracking-Claimants 1," Number 999DOE007Z. Interest shall be calculated from September 1, 1987 to the date of disbursement on funds received from Berry, Saxon, and Armstrong. Interest shall be calculated from May 19, 1987 to the date of disbursement on crude oil funds received from Marathon.

(8) This is a final Order of the Department of Energy.

George B. Breznay,

Director, Office of Hearings and Appeals.

Date: September 14, 1987.

APPENDIX

Name of firm(s)	OHA Case number	Consent order number	Crude oil settlement amount	Interest [1]
Berry Holding Co. Berry & Ewing; Surprise Oil Co.	KEF-0027	910C00059Z	$9,111,869.56	$2,058,636.78
Saxon Oil Co.	KEF-0028	670C00311Z	120,000.00	23,725.80
Armstrong Petroleum Corp. and City of Newport Beach, CA	KEF-0041	960C0023Z	2,108,900.03	164,729.63
Marathon Petroleum Co.	KFX-0023	RMNA00001Z	8,433,014.00	656,279.29

[1] All interest is reported through August 31, 1987 except for Marathon which is reported through May 18, 1987.

[FR Doc. 87-21703 Filed 9-18-87; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3264-4]

Open Meeting; Science Advisory Board, Environmental Health Committee Drinking Water Subcommittee

Under Pub. L. 92-463, notice is hereby given that a two-day meeting of the Drinking Water Subcommittee of the Environmental Health Committee of the Science Advisory Board will be held on October 8-9, 1987 in the West Park Hotel, 1900 N. Ft. Myer Drive, Arlington, VA 22209 in the Dogwood Conference Room. The meeting will start at 8:30 a.m. on October 8th and adjourn no later than 4:00 p.m. on October 9th.

The purpose of the meeting is to review the Office of Drinking Water's Report to Congress on Comparative Health Effects and Criteria Document for Xylene.

The meeting will be open to the public. Any member of the public wishing to present information to the Subcommittee must contact, in writing, Dr. C. Richard Cothern, Executive Secretary to the Committee, or Ms. Renee' Butler, by telephone at (202) 382-2552 or by mail to: Science Advisory Board (A101F), 401 M Street, SW., Washington, DC 20460 no later than C.O.B. October 5, 1987.

Date: September 14, 1987.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 87-21727 Filed 9-18-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3264-5]

Open Meeting on October 8, 1987; Science Advisory Board Executive Committee

Under Pub. L. 92-463, notice is hereby given that the Executive Committee of the Science Advisory Board will hold a meeting on October 8, 1987 at the U.S. Environmental Protection Agency, in the Administrator's Conference Room, Room 1103 of the West Tower. The meeting will begin at 9:00 a.m. on

Thursday, October 8, and adjourn no later than 5:00 p.m. on that day.

Issues to be discussed by the Committee at this meeting include draft Science Advisory Board reports on review of: The Underground Storage Tank Release Simulation Model; The Land Disposal Research Program; and The Waste Minimization Research Program; The Idaho Radionuclide Study; and The National Radon Survey Design. In addition, the Committee will hear a status report on review of revisions to the Hazard Ranking System.

The meeting is open to the public. Any member of the public wishing to attend or submit written comments should notify Dr. Terry F. Yosie, Director, Science Advisory Board, at 202-382-4126 or Joanna Foellmer by October 2, 1987.

Date: September 14, 1987.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 87-21728 Filed 9-18-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3264-6]

Science Advisory Board Long-Range Ecological Research Needs Subcommittee; Open Meeting

Under the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that a one and one half day meeting of the Long-Range Ecological Research Needs Subcommittee of the Science Advisory Board will be held on October 6 and 7, 1987. The meeting will begin at 9:00 a.m. on October 6, and will be held in the Administrator's Conference Room 1103 at the U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC. Adjourment on October 7 will take place no later than 1:00 p.m.

The main purpose of the meeting is to continue an assessment of EPA's ecological research needs, specifically those research needs that address ecological problems that may be encountered or may persist in the future. The Subcommittee will begin to build on a framework of ideas developed at the last meeting, and will identify endpoints that may be applied to help formulate a research plan. The Subcommittee will continue to receive information about ecological research conducted by other Agencies. Speakers from other Agencies and some private concerns will provide briefings based on their activities related to these issues. EPA research program representatives will also provide information to the Subcommittee.

The meeting will be open to the public. Anyone who wishes to attend, present information to the Subcommittee, or obtain information concerning the meeting, should contact Ms. Janis Kurtz, Executive Secretary, or Mrs. Lutithia Barbee, Staff Secretary, (A101-F), Environmental Effects, Transport and Fate Committee, Science Advisory Board, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC. 20460, Telephone (202) 382-2552 or FTS 8-382-2552. Written comments will be accepted, and can be sent to Ms. Kurtz at the address above. Persons interested in making statements before the Subcommittee must contact Ms. Kurtz no later than October 1, 1987 in order to be assured of space on the agenda.

Date: September 11, 1987.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 87-21729 Filed 9-18-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of 3067-0184

Title: Superfund Cost Share Eligibility Criteria for Permanent and Temporary Relocation

Abstract: This Information is required by FEMA from the States as documentation of matching relocation assistance contributions submitted by the States. The documentation is used by FEMA to substantiate the State's completed work and matching contribution under cost sharing, 44 CFR Part 222. Except as otherwise noted, there is a 90% Federal/10% State cost share relationship

Type of Respondents: State or local governments

Number of Respondents: 3

Burden Hours: 300

Frequency of Recordkeeping or Reporting: On occasion

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646-2624, 500 C Street SW., Washington, DC 20472.

Comments should be directed to Francine Picoult, (202) 395-7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503 within two weeks of this notice.

Date: September 8, 1987.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 87-21683 Filed 9-18-87; 8:45 am]

BILLING CODE 6718-01-M

[FEMA-798-DR]

Amendment to Notice of Major-Disaster Declaration; Illinois

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Illinois (FEMA-798-DR), dated August 21, 1987, and related determinations.

DATED: September 8, 1987.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliot, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3614.

Notice: The notice of a major disaster for the State of Illinois, dated August 21, 1987, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 21, 1987:

The portion of Cook County located within Berwyn, Cicero, and Oak Park Townships, and the portion of Cook County north of the Cook-DuPage County line and north of Roosevelt Road; and all areas of DuPage County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83,516, Disaster Assistance)

Joseph A. Moreland,

Acting Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 87-21685 Filed 9-18-87; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-3092-EM

Emergency and Related Determinations; Wyoming

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Wyoming.

(FEMA-3092-EM), dated September 4, 1987, and related determinations.

DATED: September 4, 1987.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3614.

Notice: Notice is hereby given that, in a letter of August 4, 1987, the President declared an emergency under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288), as follows:

I have determined that the potential threat of fire and explosion caused by the presence of methane gas in the Rawhide Village/Horizon Subdivision in Campbell County, Wyoming is of sufficient severity and magnitude to warrant an emergency declaration under PL 93-288. I therefore declare that such an emergency exists in the State of Wyoming.

You are hereby authorized to provide temporary housing assistance as required beginning on the date of my declaration of an emergency. You are further authorized to allocate, from funds available for these purposes, such amounts as you find necessary.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Mr. David P. Grier IV of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following area of the State of Wyoming to have been affected adversely by this declared emergency.

Rawhide Village/Horizon Subdivision located in Campbell County for assistance as authorized by the President's declaration.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Julius W. Becton, Jr.,

Director.

[FR Doc. 87-21684 Filed 9-18-87; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; The Bank Line, Limited, et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-009502-018.

Title: United States/South and East Africa Conference.

Parties:

The Bank Line, Limited
Lykes Bros. Steamship Co., Inc.
South African Marine Corp., Ltd.
United States Lines, Inc.

Synopsis: The proposed amendment would permit the parties to exercise independent action on the level of compensation paid to an ocean freight forwarder who is also a customs broker.

By Order of the Federal Maritime Commission.

Dated: September 16, 1987.

Tony P. Kominoth,

Assistant Secretary.

[FR Doc. 87-21736 Filed 9-18-87; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed; Schroeder Marine Terminal, Inc., et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200036.

Title: Port of Houston Authority Terminal Agreement.

Parties:

Port of Houston Authority
Schroeder Marine Terminal Inc.

Synopsis: The proposed agreement provides for freight handling services at the Port Authority's wharves and transit sheds Number 41 and 42. Handling is to include allocating space within the facility to accommodate the cargo of ships assigned by the Port to berths within the facility.

Agreement No.: 224-003939-003.

Title: City of Long Beach Preferential Assignment Agreement.

Parties:

City of Long Beach
Metropolitan Stevedore Company

Synopsis: The proposed agreement provides for substantial modifications to the conveyor systems to increase the efficiency and effectiveness of bulk loading systems at the dry bulk Terminal. The agreement also extends the term of the Preferential Assignment for a period of twelve years ending on March 31, 2008.

Agreement No.: 224-200031.

Title: Virgin Islands Port Authority Terminal Agreement.

Parties:

Virgin Islands Port Authority
Tropical Shipping and Construction, Ltd.,

Synopsis: The proposed agreement provides terms and condition under which Tropical Shipping and Construction Co., Ltd. will utilize warehouse space and land for its terminal marine operations.

By Order of the Federal Maritime Commission.

Tony P. Kominoth,

Assistant Secretary.

Dated: September 16, 1987.

[FR Doc. 87-21738 Filed 9-18-87; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Revocations; Navigato International, Inc., et al.

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License Number: 2491
Name: Navigato International, Inc.
Address: 625 Chase Ave., Elk Grove Village, IL 60007
Date Revoked: May 9, 1987
Reason: Failed to maintain a valid surety bond

License Number: 2354
Name: Professional Transportation Consultants, Inc.
Address: 23779 Madison St., Torrance, CA 90505

Date Revoked: June 25, 1987
Reason: Failed to maintain a valid surety bond

License Number: 1588
Name: James Moyles & Associates, Inc.
Address: 801 Chase Ave., Elk Grove Village, IL 60007
Date Revoked: July 4, 1987
Reason: Failed to maintain a valid surety bond

License Number: 1969
Name: Trans-World International, Inc.
Address: 7230 N.W. 77 St., Miami, FL 33166
Date Revoked: July 7, 1987
Reason: Failed to maintain a valid surety bond

License Number: 1907
Name: Navarrete Forwarding Co., Inc.
Address: 333 St. Charles Ave., #613, New Orleans, LA 70130
Date Revoked: July 8, 1987
Reason: Surrendered license voluntarily

License Number: 1360
Name: Gross & Flannelly Inc.
Address: 140 Eastern Ave., Chelsea, MA 02150
Date Revoked: July 21, 1987
Reason: Surrendered license voluntarily

License Number: 161
Name: J.T. Steeb & Co., Inc. (Oregon)
Address: 520 Yamhill Street, #422 Portland, OR 97204
Date Revoked: July 21, 1987
Reason: Surrendered license voluntarily

License Number: 753
Name: J.T. Steeb & Co., Inc. (Washington)
Address: 801 Second Ave., #318, Seattle, WA 91804
Date Revoked: July 21, 1987
Reason: Surrendered license voluntarily

License Number: 625
Name: Miguel C. Nazario dba Cuban American Forwarders
Address: 27 Park Place, No. 211, New York, NY 10007
Date Revoked: July 24, 1987
Reason: Failed to maintain a valid surety bond

License Number: 1376
Name: Sunvan International, Inc.
Address: 3028 Cascadia Ave., S., Seattle, WA 98144
Date Revoked: August 25, 1987
Reason: Voluntarily requested revocation

License Number: 500
Name: Yellow Freight System, Inc.
Address: P. O. Box 7563, 10990 Roe Ave., Overland Park, KS 66207
Date Revoked: August 29, 1987
Reason: Voluntarily requested revocation

Robert G. Drew,
Director, Bureau of Domestic Regulation.

[FR Doc. 87-21737 Filed 9-18-87; 8:45 am]
BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Production and Health Effects of Rubber Products Manufacturing; Request for Comments and Secondary Data on The National Institute for Occupational Safety and Health

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC), Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: Request for comments and secondary data.

SUMMARY: NIOSH is requesting comments and secondary data from all interested parties concerning the potential exposure of workers to hazardous substances during the manufacture of rubber products and the possible adverse health effects among these workers. Interested parties may submit (1) existing data on exposure concentrations of substances used or by-products found in the manufacture of rubber products, (2) available reports of adverse health effects or injuries observed in rubber products manufacturing, (3) descriptions of production processes or control technology in use today, or (4) any other information regarding this industry and its workers. Exposures that occur during the production of elastomers are not included in this request. This information will be used by NIOSH to evaluate whether the exposure of workers to substances found during the manufacture of rubber products or any existing work practices pose health or safety risks, and to determine the need for preventive health measures or additional research.

DATE: Comments concerning this notice should be submitted by November 20, 1987.

ADDRESS: Any information, comments, suggestions, or recomendations should be submitted in writing to: Mr. Richard A. Lemen, Director, Division of Standards Development and Technology Transfer, NIOSH, CDC, 4676 Columbia Parkway, C-14, Cincinnati, Ohio 45226.

FOR FURTHER INFORMATION CONTACT: Mr. David M. Votaw, Division of Standards Development and Technology Transfer, NIOSH, CDC, 4676 Columbia Parkway, C-31, Cincinnati, Ohio 45226, (513) 533-8313, or FTS 684-8313.

SUPPLEMENTARY INFORMATION: Under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651, *et seq.*), NIOSH is directed to gather information for improving occupational safety and health. NIOSH has received reports indicating that exposure generated during the manufacture of rubber products can cause adverse health effects in workers. Cancer, respiratory disease, dermatologic effects, coronary heart disease, injuries, and cumulative trauma disorders have been reported.

Rubber products manufacturing requires the use of a large number of chemicals which vary from one plant or process to another. Occupational exposures that occur during the mixing of rubber or elastomers with various chemicals and their subsequent fabrication into rubber products are of specific concern. However, exposures that occur during the production of elastomers and chemicals used in this industry are not included in this request for comments and secondary data.

Chemicals used in rubber products manufacturing and the by-products such as dusts, curing fumes, and solvents can be inhaled or dermally absorbed. Studies of workers from this industry have found excess deaths due to cancers of the stomach, large intestine, lymphatic and hematopoietic system, lungs, and bladder. In addition to the excess cancer deaths, adverse health effects reported for rubber workers include increased respiratory morbidity, dermatologic effects, coronary heart disease, injuries, and cumulative trauma disorders.

The International Agency for Research on Cancer lists 401 chemicals used in the rubber industry in its Monograph on the Evaluation of the Carcinogenic Risk of Chemicals to Humans, The Rubber Industry, Vol. 28. Occupational Safety and Health Administration Permissible Exposure Limits, NIOSH Recommended Exposure Limits, or American Conference of Governmental Industrial Hygienists Threshold Limit Values exist for 17 percent of these substances.

NIOSH is interesterd in obtaining existing and available materials including reports and research findings to evaluate whether recommendations for health protection or further research on the rubber products manufacturing industry are needed. Examples of requested information include:

1. Industrial hygiene data and airborne exposure concentrations of

substances in the production, formulation, transfer, or storage of rubber products.

2. Work practices, personal protective equipment, or engineering controls used in the workplace during the production, formulation, transfer, or storage of rubber products.

3. Adverse health effects or injuries observed in workers in rubber products manufacturing.

4. Epidemiology data on rubber products manufacturing workers published since 1984.

5. Descriptions of production processes in use today.

All information received in response to this notice, except that designated as trade secret and protected by section 15 of the Occupational Safety and Health Act, or personal identifying information contained in medical case reports or data, will be available for public examination and copying at the above address.

Larry W. Sparks,

Executive Officer, National Institute for Occupational Safety and Health.

[FR Doc. 87-21713 Filed 9-18-87; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

[Docket No. 87F-0281]

Ciba-Geigy Corp; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant and/or stabilizer in rubber articles for repeated use in contact with food and in lubricants with incidental food contact.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 7B4028) has been filed by Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, proposing that the food additive regulations be amended to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant and/or stabilizer in rubber articles for repeated use in contact with food by amendment of § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) and as an antioxidant and/or stabilizer in lubricants with incidental food contact by amendment of § 178.3570 *Lubricants with incidental food contact* (21 CFR 178.3570).

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: September 14, 1987.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-21673 Filed 9-18-87; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

National Toxicology Program; Chemicals (8) Nominated for Toxicological Studies; Request for Comments

SUMMARY: On July 29, 1987, the Chemical Evaluation Committee (CEC) of the National Toxicology Program (NTP) met to review eight chemicals nominated for toxicology studies and to recommend the types of studies to be performed. With this notice, the NTP solicits public comments on the eight chemicals listed herein.

FOR FURTHER INFORMATION CONTACT: Dr. Victor A. Fung, Chemical Selection Coordinator, National Toxicology Program, Room 2B55, Building 31, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-3511.

SUPPLEMENTARY INFORMATION: As part of the chemical selection process of the National Toxicology program, nominated chemicals which have been reviewed by the NTP Chemical Evaluation Committee (CEC) are published with request for comment in the **Federal Register**. This is done to encourage active participation in the NTP chemical evaluation process, thereby helping the NTP to make more informed decisions as to whether to select, defer or reject chemicals for toxicology study. Comments and data submitted in response to this request are reviewed and summarized by NTP technical staff, are forwarded to the NTP Board of Scientific Counselors for use in their evaluation of the nominated chemicals, and then to the NTP Executive Committee for decision-making. The NTP chemical selection process is summarized in the **Federal Register**, April 14, 1981 (46 FR 21828), and also in the NTP FY 1986 *Annual Plan*, pages 201-203.

On July 29, 1987, the CEC met to evaluate eight chemicals nominated to the NTP for toxicological studies. The following table lists the chemicals, and their Chemical Abstract Service (CAS) registry numbers.

Chemical	CAS No.
1. 1,4-Butanediol	110-63-4
2. Diethylene glycol	111-46-6
3. Dipropylene glycol	25265-71-8
4. Conjugated estrogens	
5. Oxymetholone	434-07-1
6. Treosulfan	299-75-2
7. Carbon disulfide	75-15-0
8. Methylene diphenyl diisocyanate	101-68-8

Dipropylene glycol was nominated for subchronic studies; the remaining seven chemicals were nominated for carcinogenicity testing.

Of the eight chemicals, three have been previously selected for study by the NTP. Diethylene glycol was nonmutagenic in the *Salmonella* microsomal assay. Short term *in vivo* reproductive toxicity and continuous breeding studies were also conducted on this chemical.

Carbon disulfide was nonmutagenic in the *Salmonella* microsomal assay in studies conducted by two independent laboratories. A 90-day inhalation study and conventional teratology studies have been performed on carbon disulfide. A National Cancer Institute/NTP gavage carcinogenicity study in mice and rats was conducted in the early 1970s. However, the data were judged to be inadequate due to the poor survival of the animals, and no technical report was written. Carbon disulfide is currently on test for chromosomal abberrations and sister chromatid exchanges in Chinese hamster ovary cells.

Methylene diphenyl diisocyanate was nonmutagenic in the *Salmonella* microsomal assay. A gavage subchronic study was completed for this chemical but a chronic study was not initiated due to technical difficulties.

Interested parties are requested to submit pertinent information. The

following types of data are of particular relevance:

(1) Modes of production, present production levels, and occupational exposure potential.

(2) Uses and resulting exposure levels, where known.

(3) Completed, ongoing and/or planned toxicologic testing in the private sector including detailed experimented protocols and results, in the case of completed studies.

(4) Results of toxicological studies of structurally related compounds.

Please submit all information in writing by thirty days after date of publication. Any submissions received after the above date will be accepted and utilized where possible.

Dated: September 16, 1987.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 87-21739 Filed 9-18-87; 8:45 am]

BILLING CODE 4140-01-M

Notification of the Disposal of Wet Tissues From Toxicology and Carcinogenesis Studies Stored in the National Toxicology Program Archives

The National Toxicology Program (NTP) Archives currently maintains records and pathology materials for over 300 National Cancer Institute and NTP toxicology and carcinogenesis studies, some of which were started and completed more than 10 years ago. The storage space for the wet tissues (animal organs and carcasses in formalin) is no longer adequate and additional storage space would be required. Since these studies were completed years ago, and for most studies histological slides and paraffin blocks are available, we plan to discard the wet tissues from selected studies where it is anticipated that there is either little current interest or the tissues are considered no longer viable. The histological slides and paraffin blocks will remain available for these studies.

Attached is the third list of studies for which the wet tissues are to be discarded. (The first list was published in the **Federal Register** on September 19, 1986, 51 FR 33303-33304 and the second list was published on February 9, 1987, 52 FR 4060-4062.) The chemicals are from studies conducted at Southern Research Institute where the final sacrifices occurred between 1971 and 1976. Anyone who has questions about the studies listed should contact Dr. Gary A. Boorman, Project Officer for the NTP Archives, by telephone at (919) 541-3440, FTS 629-3440, or in writing at NIEHS, MD C2-01, P.O. Box 12233, Research Triangle Park, NC 27709.

If no objections are received by 30 days after publication of this notice, the formalin fixed wet tissues from these studies will be discarded.

Attachment.

Dated: September 14, 1987.

David P. Rall,

Director, National Toxicology Program.

LIST III—PROPOSED DISPOSAL OF WET TISSUES FOR TOXICOLOGY & CARCINOGENESIS STUDIES

Exp. No. Chemical	Single dose study		14-Day study		90-day study		2-Year study	
	Start	End	Start	End	Start	End	Start	End
61 Records on list Chem:								
C03247 Acetohexamide	09/00/72A		11/00/72A		12/00/72A	06/00/73A	09/00/73A	10/00/75A
TR-050 P It is concluded that under the conditions of this bioassay, Acetohexamide was not carcinogenic for either Fischer 344 rats or B6C3F1 mice.								
C00384A 2-Acetylaminofluorene							03/15/69A	03/15/71A
Ref. No. 21 Positive controls and studies with inadequate data. Positive control-no Technical Report issued.								
C00384B 2-Acetylaminofluorene							01/15/71A	03/15/75A
Ref. No. 21 Positive controls and studies with inadequate data. Positive control-no Technical Report issued.								
C00384C 2-Acetylaminofluorene	09/00/70A		11/00/70A		12/00/70A	08/00/71A	09/00/71A	12/00/73A
Ref. No. 21 Positive controls and studies with inadequate data. Positive control-no Technical Report issued.								
C00384D 2-Acetylaminofluorene	02/00/71A		04/00/71A		05/00/71A	10/00/71A	02/00/72A	04/00/73A
Ref. No. 21 Positive controls and studies with inadequate data. Positive control-no Technical Report issued.								
C00384E 2-Acetylaminofluorene	05/00/71A		07/00/71A		08/00/71A	01/00/72A	05/00/72A	06/00/74A
Ref. No. 21 Positive controls and studies with inadequate data. Positive control-no Technical Report issued.								
C00384F 2-Acetylaminofluorene	03/00/72A		05/00/72A		06/00/72A	11/00/72A	02/00/73A	03/00/75A
Ref. No. 21 Positive controls and studies with inadequate data. Positive control-no Technical Report issued.								
C00384G 2-Acetylaminofluorene							03/15/73A	02/15/75A
Ref. No. 21 Positive controls and studies with inadequate data. Positive control-no Technical Report issued.								
C00384H 2-Acetylaminofluorene	11/00/70A		01/00/71A		02/00/71A	08/00/71A	03/00/73A	03/00/75A
Ref. No. 21 Positive controls and studies with inadequate data. Positive control-no Technical Report issued.								
C04739 1-Acetyl-2-Picolinoyl HYD	06/00/68A		08/00/68A		09/00/68A	03/00/69A	06/00/69A	07/00/71A
Ref. No. 21 Positive controls and studies with inadequate data. Data inconclusive-no Technical Report issued.								
C03190 N-(4-(9-Acridinylamino)-3	10/00/72A		12/00/72A		01/00/73A	06/00/73A	10/00/73A	02/00/76A
Ref. No. 21 Positive controls and studies with inadequate data. Data inadequate, no report. DEG 12/16/76, recommends no report: (1) inadequate survival in treated groups. (2) No statistically significant occurrence of tumors.								
C01536 Acronycine	02/00/71A		04/00/71A		05/00/71A	12/00/71A	02/00/72A	02/00/76A
TR-049 P Under the conditions of this bioassay, the low survival of the dosed and control mice and the possible procedural problems associated with intraperitoneal injection of the chemical do not allow a determination to be made of the carcinogenicity of Acronycine in this species. In Sprague-Dawley rats, Acronycine in the vehicle of 0.05% polysorbate 80 in phosphate-buffered saline was carcinogenic, producing tumors of the mammary gland in females, osteosarcomas in males, and sarcomas and other related tumors of the peritoneum in both males and females.								
C04682 Actinomycin D	03/00/68A		05/00/68A		06/00/68A	11/00/68A	03/00/69A	03/00/71A
TR-00A P various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual component.								
C01730 0-Anthranilic Acid	01/00/72A		03/00/72A		04/00/72A	11/00/72A	01/00/73A	03/00/75A
TR-036 P It is concluded that under the conditions of this bioassay, Anthranilic Acid was not carcinogenic for either Fischer 344 rats or B6C3F1 mice.								
C01569 5-Azacytidine	04/00/71A		06/00/71A		07/00/71A	12/00/71A	04/00/72A	11/00/73A

LIST III—PROPOSED DISPOSAL OF WET TISSUES FOR TOXICOLOGY & CARCINOGENESIS STUDIES—Continued

Exp. No. Chemical	Single dose study		14-Day study		90-day study		2-Year study	
	Start	End	Start	End	Start	End	Start	End
TR-042 P Under the conditions of this bioassay, the short life span and short duration of treatment of Sprague-Dawley rats of either sex and of male B6C3F1 mice precluded evaluation of the carcinogenicity of 5-Azacytidine in these groups. However, the induction of tumors of the hematopoietic system in female B6C3F1 mice was associated with the administration of 5-Azacytidine.								
C03474 Azathioprine	06/00/68A		08/00/68A		09/00/68A	02/00/69A	06/00/69A	06/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C04773 1,3-Bis(Chloroethyl)-1-Nl	04/00/68A		06/00/68A		07/00/68A	12/00/68A	04/00/69A	04/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C03485 Chlorambucil	04/00/68A		06/00/68A		07/00/68A	12/00/68A	04/00/69A	04/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that generally less than that of the individual components.								
C01752 Chlorpropamide	07/00/72A		09/00/72A		10/00/72A	03/00/73A	07/00/73A	07/00/75A
TR-045 P It is concluded that under the conditions of this bioassay, Chlorpropamide was not carcinogenic for Fischer 344 rats or B6C3F1 mice.								
C04900 Cyclophosphamide	05/00/68A		07/00/68A		08/00/68A	01/00/69A	05/00/69A	05/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C04728 Cytarabine	06/00/68A		08/00/68A		09/00/68A	09/00/69A	06/00/69A	01/00/72A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C04922 Cytoxal Alcohol	09/00/68A		11/00/68A		12/00/68A	05/00/69A	09/00/69A	09/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C04717 Dacarbazine	07/00/68A		09/00/68A		10/00/68A	07/00/69A	07/00/69A	11/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C04693 Daunomycin	04/00/68A		06/00/68A		07/00/68A	12/00/68A	04/00/69A	04/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C04933 O,P'-DDD	09/00/68A		11/00/68A		12/00/68A	05/00/69A	09/00/69A	09/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C04808 (4,4'-Diacetyldiphenylure	08/00/68A		10/00/68A		11/00/68A	05/00/69A	08/00/69A	09/00/71A
Ref. No. 21 Positive controls and studies with inadequate data. Data inadequate-no Technical Report issued.								
C04795 Dibromodulcitol	07/00/68A		09/00/68A		10/00/68A	04/00/69A	07/00/69A	08/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C04762 Dibromomannitol	08/00/68A		10/00/68A		11/00/68A	07/00/69A	08/00/69A	11/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C04875 Dichloromethotrexate	06/00/68A		08/00/68A		09/00/68A	02/00/69A	06/00/69A	06/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C01605 Emetine	06/00/71A		08/00/71A		09/00/71A	05/00/72A	06/00/72A	10/00/74A
TR-043 P It is concluded that the results of this study do not allow evaluation of the possible carcinogenicity of Emetine.								
C01570 Estradiol Mustard	07/00/71A		09/00/71A		10/00/71A	04/00/72A	07/00/72A	04/00/74A
TR-059 P Under the conditions of this bioassay, Estradiol Mustard administered in a buffered saline vehicle was not carcinogenic in Sprague-Dawley rats. Estradiol Mustard was carcinogenic in both male and female B6C3F1 mice, causing Lymphoma, Sarcoma of the Myocardium, Alveolar Adenoma of Carcinoma, and Squamous-cell carcinoma of the stomach.								
C01694 Ethionamide	04/00/72A		06/00/72A		07/00/72A	12/00/72A	04/00/73A	04/00/75A
TR-046 P It is concluded that under the conditions of this bioassay, Ethionamide was not carcinogenic in either Fischer 344 rats or B6C3F1 mice.								
C04819 Guanazole	05/00/68A		07/00/68A		08/00/68A	04/00/69A	05/00/69A	08/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenlcity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C04831 Hydroxyurea	04/00/68A		06/00/68A		07/00/68A	12/00/68A	04/00/69A	04/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C01616 Imidazole Mustard	09/00/68A		11/00/68A		12/00/68A	05/00/69A	09/00/69A	09/00/71A
Ref. No. 21 Positive controls and studies with inadequate data. Data inconclusive-no Technical Report issued.								
C01547 IPD (3,3'-Iminobis-1-Prop	05/00/71A		07/00/71A		08/00/71A	01/00/72A	05/00/72A	12/00/74A
TR-018 P Conclusions from this study are limited by early deaths and toxicity, the appearance of tumors in the peritoneum near the injection sites in both Sprague-Dawley rats and B6C3F1 mice indicate carcinogenic potential of IPD.								
C01638 Isophosphamide	02/00/71A		04/00/71A		05/00/71A	12/00/71A	02/00/72A	10/00/73A
TR-032 P Under the conditions of this bioassay, isophosphamide was not carcinogenic in male Sprague-Dawley rats or in male B6C3F1 mice. The incidence of leiomyosarcomas of the uterus indicated that Isophosphamide was carcinogenic in female Sprague-Dawley rats, and the incidence of fibroadenoma of the mammary gland in female rats was associated with treatment with isophosphamide. Isophosphamide was carcinogenic in female B6C3F1 mice, producing malignant lymphomas of the hematopoietic system.								
C04740 Lomustine	02/00/69A		04/00/69A		05/00/69A	11/00/69A	02/00/70A	03/00/72A

List III—Proposed Disposal of Wet Tissues for Toxicology & Carcinogenesis Studies—Continued

Exp. No. Chemical	Single dose study		14-Day study		90-day study		2-Year study	
	Start	End	Start	End	Start	End	Start	End
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C04886 6-Mercaptopurine			06/00/68A		08/00/68A		09/00/68A	02/00/69A	06/00/69A	06/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C04944 Merphalan			09/00/68A		11/00/68A		12/00/68A	05/00/69A	09/00/69A	09/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C04671 Methotrexate			03/00/68A		05/00/68A		06/00/68A	11/00/68A	03/00/69A	03/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C04955 Methyl CCNU			10/00/66A		12/00/66A		01/00/67A	06/00/67A	10/00/67A	10/00/69A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C01627 (+-)-4,4'-(1-Metyl-1,2-E			05/00/71A		07/00/71A		08/00/71A	01/00/72A	05/00/72A	01/00/74A
TR-078 P Under the conditions of this bioassay, ICRF-159 was carcinogenic for female Sprague-Dawley rats, producing uterine adenocarcinomas, and was also carcinogenic for female B6C3F1 mice, producing lymphomas.								
C04784 6-Methylmercaptopurine Rl			04/00/68A		06/00/68A		07/00/68A	12/00/68A	04/00/69A	04/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C04706 Mitomycin C			05/00/68A		07/00/68A		08/00/68A	01/00/69A	05/00/69A	05/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C01592 Myleran			07/00/71A		09/00/71A		10/00/71A	06/00/72A	07/00/72A	11/00/74A
Ref. No. 21 Positive controls and studies with inadequate data.								
Data inadequate-no report. DEG recomm no report 12/16/76 DUE TO (1) inadeq. Survival in treated groups, (2) No statistically significant occurrence of tumors.								
C01672 Phenazopyridine Hydrochlo			10/00/71A		12/00/71A		01/00/72A	09/00/72A	10/00/72A	01/00/75A
TR-099 P Under the conditions of this bioassay, Phenazopyridine Hydrochloride was carcinogenic in Fischer 344 rats, inducing adenocarcinomas of the colon in both males and females. Although administration of Phenazopyridine Hydrochloride was not carcinogenic in male B6C3F1 mice, the chemical was carcinogenic in females, inducing hepatocellular adenomas and carcinomas.								
C01558 Phenesterin			06/00/71A		08/00/71A		09/00/71A	04/00/72A	06/00/72A	02/00/76A
TR-060 P Under the conditions of this bioassay, Phenesterin was carcinogenic in female Sprague-Dawley rats, producing adenocarcinomas of the mammary gland and in both sexes of B6C3F1 mice, producing alveolar/bronchiolar carcinomas, hematopoietic tumors, and myocardial sarcomas.								
C01741 Phenformin			02/00/72A		04/00/72A		05/00/72A	10/00/72A	02/00/73A	02/00/75A
TR-007 P No evidence for carcinogenicity under the conditions of this bioassay of Phenformin. Stability of test material in feed not determined, however test performed in male mice be inconclusive. Confidence intervals for all tumor sites in rats and mice which were subjected to statistical analysis include a positive value indicating the theoretical possibility of tumor induction by Phenformin which could not be detected under the conditions of this test.								
C01661 Phenoxybenzamine Hydrochl			07/00/71A		09/00/71A		10/00/71A	04/00/72A	07/00/72A	07/00/76A
TR-072 P Under the conditions of this bioassay, Phenoxybenzamine Hydrochloride was carcinogenic for the peritoneum of both sexes of Sprague-Dawley rats and B6C3F1 mice.								
C04897 Prednisone			05/00/68A		07/00/68A		08/00/68A	01/00/69A	05/00/69A	05/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C01810A Procarbazine Hydrochlorid			06/00/68A		08/00/68A		09/00/68A	07/00/69A	06/00/69A	11/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C01810B Procarbazine Hydrochlorid			05/00/71A		07/00/71A		08/00/71A	01/00/72A	05/00/72A	01/00/74A
TR-019 P It is concluded that under the conditions of this bioassay, Procarbazine was carcinogenc for both Sprague-Dawley rats and B6C3F1 mice, producing several types of tumors in both sexes of these two species.								
C01785 Pyrazinamide			01/00/72A		03/00/72A		04/00/72A	09/00/72A	01/00/73A	02/00/75A
TR-048 P It is concluded that under the conditions of this bioassay the early deaths and small size of the control group precluded a conclusion regarding the carcinogenicity of Pyrazinamide in female B6C3F1 mice. Pyrazinamide was not carcinogenic for Fischer 344 rats or for male mice.								
C01683 Pyrimethamine			01/00/72A		03/00/72A		04/00/72A	09/00/72A	01/00/73A	01/00/75A
TR-U77 P It is concluded that under the conditions of this bioassay, Pyrimethamine was not carcinogenic for male or female Fischer 344 rats or for female B6C3F1 mice. The carcinogenic potential of Pyrimethamine for male B6C3F1 mice cannot be assessed by this bioassay, because of the markedly reduced life span.								
C03167 Streptozotocin			12/00/68A		02/00/69A		03/00/69A	08/00/69A	12/00/69A	12/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
(Note: C05485 Streptozotocin + NAA is not the system and it is not cited in TR-00A)								
C01718 4,4'-Sulfonyldianiline			05/00/71A		07/00/71A		08/00/71A	01/00/72A	05/00/72A	05/00/74A
TR-020 P It is concluded that under the conditions of this bioassay, Dapsone (4,4'-Sulfonyldianiline) was not carcinogenic for female Fischer 344 rats or B6C3F1 mice of either sex. Dapson was carcinogenic (sarcomagenic) for male Fischer 344 rats causing mesenchymal tumors in the spleen and peritoneum.								
C01707 4,4'-Thiodianiline			09/00/71A		11/00/71A		12/00/71A	05/00/72A	09/00/74A	09/00/74A
TR-047 P Under the conditions of this bioassay, 4,4'-Thiodianiline was carcinogenic for Fischer 344 rats, inducing tumors in the liver, thyroid, colon, and ear canal of male rats, and the thyroid, uterus, and ear canal of female rats. 4,4'-Thiodianiline was carcinogenic for B6C3F1 mice, including tumors in the liver and thyroid of both males and females.								
C01581 Beta-Thioguanidine Deoxyr			07/00/73A		09/00/73A		10/00/73A	03/00/74A	07/00/73A	04/00/75A
TR-057 P Under the conditions of this bioassay, the low survival of the doses and vehicle-control groups of mice, as well as the possible procedural problem that may have affected the incidences of tumors in these groups, does not allow a determination to be made of the carcinogenic potential of B-TGDR in this species. B-TGDR in the vehicle of 0.05% polysorbate 80 was, however, carcinogenic in rats, producing carcinomas of the ear canal in the females and possibly also in the males.								
C03327 Tolazamide			10/00/72A		12/00/72A		01/00/73A	07/00/73A	10/00/73A	11/00/75A
TR-051 P It is concluded that under the conditions of this biossay, Tolazamide was not carcinogenic for Fischer 344 rats or B6C3F1 mice.								
C01763 Tolbutamide			03/00/72A		05/00/72A		06/00/72A	01/00/73A	03/00/73A	05/00/75A
TR-031 P It is concluded that under the conditions of this bioassay, Tolazamide was not carcinogenic for either Fischer 344 rats or B6C3F1 mice.								
C01649 Tris(Aziridinyl)-Phosphin			05/00/71A		07/00/71A		08/00/71A	01/00/72A	05/00/72A	03/00/75A

LIST III—PROPOSED DISPOSAL OF WET TISSUES FOR TOXICOLOGY & CARCINOGENESIS STUDIES—Continued

Exp. No. Chemical	Single dose study		14-Day study		90-day study		2-Year study	
	Start	End	Start	End	Start	End	Start	End
TR-058 P Under the conditions of the bioassay, THIO-TEPA was carcinogenic in both Sprague-Dawley rats and B6C3F1 mice. In the rats, the chemical induced squamous-cell carcinoma of the skin or ear canal in both males and females, and nematopoietic neoplasms in the males. In the mice, it induced lymphoma or lymphocytic leukemia in both sexes and squamous-cell carcinoma in the skin and associated glands of males.								
C01729 L-Tryptophan	02/00/72A		04/00/72A		05/00/72A	10/00/72A	02/00/73A	02/00/75A
TR-071 P It is concluded that under the conditions of this bioassay, L-Tryptophan was not carcinogenic for Fisher 344 rats or B6C3F1 mice.								
C04820 Uracil Mustard	04/00/68A		06/00/68A		07/00/68A	12/00/68A	04/00/69A	04/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual component.								
C04842 Vinblastine	05/00/68A		07/00/68A		08/00/68A	01/00/69A	05/00/69A	05/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplatic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								

[FR Doc. 87-21740 Filed 9-18-87; 8:45 am]
BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK-(965)-4213-15; F-14955-A]

Alaska Native Claims Selection; Wales Native Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Wales Native Corporation for approximately 15.97 acres. The lands involved are in the vicinity of Wales, Alaska.

Kateel River Meridian

T. 2 N., R. 45 W., (unsurveyed)
Within Secs. 23 and 24, those lands formerly within ANSCA Sec. 3(e) application F-64899, excluded from Interim Conveyance No. 491, dated March 25, 1982.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the *The Nome Nugget*. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until October 21, 1981 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Elizabeth Bonnell,
Acting Chief, Branch of Northwest Adjudication.
[FR Doc. 87-21668 Filed 9-18-87; 8:45 am]
BILLING CODE 4310-JA-M

[UT-060-07-4322-13]

Proposed Commercial Hunting in Desolation, Turtle, and Jack Canyons Wilderness Study Areas, UT

September 11, 1987.

AGENCY: Bureau of Land Management, Moab, Utah.

ACTION: Notice of 30 day comment period on proposed commercial hunting in Desolation Canyon, Turtle Canyon, and Jack Canyon Wilderness Study Areas (WSAs).

SUMMARY: Pursuant to the Federal Land Policy and Management Act, section 603, and the Bureau's Interim Management Policy notice is hereby given of a 30 day public comment period concerning proposed permitting for commercial hunting in the Book Cliffs region of Carbon and Emery Counties in Utah. Proposed hunting areas often overlap into WSAs. At present one application submitted by Bucks and Bulls of Lindon, Utah is pending. An environmental assessment is being prepared and is available on request. All facilities would be provided on private lands outside WSAs. The affected WSAs are:

WSA	WSA number
Turtle Canyon WSA	UT-060-067
Desolation Canyon	UT-060-068A
Jack Canyon	UT-060-068C

FOR FURTHER INFORMATION CONTACT: Jim Kenna, Bureau of Land Management, Price River Resource Area, P.O. Drawer AB, Price, Utah 84501 (Phone: 801-637-4584).

Gary L. Hanson,
Acting District Manager.
[FR Doc. 87-21676 Filed 9-18-87; 8:45 am]
BILLING CODE 7310-DQ-M

[UT-942-07-4220-10; U 61675]

Utah; Proposed Withdrawal and Opportunity for Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 132,150.26 acres of public land for the protection of sites currently being considered by the State of Utah for the Department of Energy's Superconducting Supercollider project, near Salt Lake City, Utah. This notice closes the land for up to 2 years from mining location. The land will remain open to surface entry and mineral leasing.

DATE: Comments and request for a public meeting should be received by December 21, 1987.

ADDRESS: Comments and meeting requests should be sent to the Utah State Director, Bureau of Land Management, 324 South State, Suite 301, Salt Lake City, Utah 84111-2303.

FOR FURTHER INFORMATION CONTACT: Lillie Hikida, BLM, Utah State Office, 801-524-3074.

SUPPLEMENTARY INFORMATION: On August 28, 1987, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public land from location under the mining laws, subject to vaild existing rights.

Salt Lake Meridian, Utah

T. 1 N., R. 8 W.,

Sec. 5, All;
Sec. 6, Lots 1–4, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Secs. 7, 8, 17–20, 29, 30, 31, All.
T. 2 N., R. 9 W.,
Secs. 19–21, All;
Sec. 22, N½N½, N½S½N½, S½SW¼NW¼, SW¼SE¼NW¼, W½NE¼SW¼, W½SW¼, SE¼SW¼, S½SW¼SE¼, SW¼SE¼SE¼;
Sec. 23, N½, N½SW¼, E½SW¼SW¼, SE¼SW¼, SE¼;
Sec. 24, NW¼NE¼, W½, W½SE¼;
Sec. 25, All;
Sec. 26, E½, E½NW¼, E½NW¼NW¼, SW¼NW¼, SW¼;
Sec. 27, W½NE¼NE¼, SE¼NE¼NE¼, W½NE¼, SE¼NE¼, W½, SE¼;
Sec. 28–31, 33, 34, All;
Sec. 35, N½, SW¼, W½W½SE¼.
T. 2 N., R. 10 W.,
Secs. 19–31, 33–35, All.
T. 2 N., R. 11 W.,
Secs. 19–31, 33–35, All.
T. 1 N., R. 14 W.,
Secs. 4–9, 17–21, 29–31, 33, All.
T. 1 S., R. 8 W.,
Secs. 1, 3, 4, All;
Sec. 5, Lots 1–4, S½NE¼, SE¼NW¼, S½;
Secs. 6–15, 17–31, 33–35, All.
T. 2 S., R. 8 W.,
Secs. 1–11, All;
Sec. 12, N½N½, SW¼NW¼, W½SW¼;
Sec. 13, W½NW¼;
Secs. 14, 15, 17–21, All;
Sec. 22, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 23, NW¼, N½SW¼;
Secs. 28–31, 33, All.
T. 3 S., R. 8 W.,
Secs. 5–8, All;
Sec. 17, W½;
Sec. 18, All.
T. 3 S., R. 9 W.,
Secs. 19–31, 33–35, All.
T. 3 S., R. 10 W.,
Secs. 19–13, 33–35, All.
T. 3 S., R. 11 W.,
Secs. 19–31, 33–35, All.
T. 1 S., R. 14 W.,
Secs. 4–9, 17–21, 28–31, 33, All.
T. 2 S., R. 14 W.,
Secs. 5–9, 17, 18, A.

The area described contains 132,150.26 acres in Tooele County, Utah.

There are no lands to be excepted from those described above, except as noted above.

The purpose of the proposed withdrawal is protection of sites currently being considered by the State of Utah for the Department of Energy's Superconducting Supercollider Project.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Utah State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request of the Utah State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or cancelled or the withdrawal is approved prior to that date.

The temporary segregation of the lands in connection with a withdrawal application or proposal shall not affect administrative jurisdiction over the lands, and the segregation shall not have the effect of authorizing any use of the land by the Bureau of Land Management.

Date: September 11, 1987.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87–21681 Filed 9–18–87; 8:45 am]

BILLING CODE 4310-DQ-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Agricultural Cooperative; Notice To the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers; Ag Processing, Inc.,

Date: September 16, 1987.

The following Notices were filed in accordance with section 10526 (a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, DC 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC.:

(1) Ag Processing Inc.
(2) 11235 Davenport St. Omaha, NE 68154
(3) P.O. Box 220, 804 2nd Avenue Sheldon, IA 51201
(4) Mike Maranell P.O. Box 220 Sheldon, IA 51201

Noreta R. McGee,

Secretary.

[FR Doc. 87–21748 Filed 9–18–87; 8:45am]

BILLING CODE 7035-01

Summary Grant Application Involving the Purchase, Merger, Lease or Control of a Motor Passenger Carrier; Blue & White Lines, of Arizona; Inc.

MC–F–18640, filed August 19, 1987. Blue & White Lines of Arizona, Inc. (Arizona) (4001 South 34th St., Phoenix, AZ 85040)—Control—Sun Valley Bus Lines, Inc. (Sun Valley) (1350 North 22nd Ave., P.O. Box 247, Phoenix, AZ 85002). Representatives: Christian V. Graf and David H. Radcliff, 407 North Front St., Harrisburg, PA 17101. Arizona (MC–162388) seeks authority to acquire control of Sun Valley (MC–108378) through the purchase of all of Sun Valley's outstanding stock. Dennis R. Long (Long) is Chairman of the Board and owns 100 percent of the Class I common stock of Arizona. Dennis Long also controls Blue & White Lines of Florida, Inc. (Florida) (MC–158455) and Blue & White Lines, Inc. (Blue & White) (MC–46614) through majority stock ownership. R.A. Long, the father of Dennis R. Long, owns a minority stock interest in Florida and Blue & White. Blue & White in turn, controls Lincoln Coach Lines, Inc. (MC–120083), a motor carrier, and Lincoln Coach Travel, Inc. (MC–157167) a passenger broker.

Decided: September 14, 1987.

Noreta R. McGee,

Secretary.

[FR Doc. 87–21749 Filed 9–18–87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Renewal; Advisory Committee on Special Minimum Wages

Notice is given that after consultation with the General Services Administration (GSA), it has been determined that the Advisory Committee on Sheltered Workshops whose charter expires October 11, 1987, is hereby renewed and redesignated as the Advisory Committee on Special Minimum Wages for the period October 11, 1987 to October 11, 1989. This action is necessary and in the public interest.

The Committee will advise the Secretary on issues concerning the application of the Fair Labor Standards Act, the Service Contract Act, and the Public Contracts Act to workers with impaired productive capacity.

Committee membership is designed to insure that all major groups affected by the Acts and the regulations issued thereunder are represented. The Committee will consist of 23 members: 9 consumer members (workers with disabilities or representatives of organizations representing workers with disabilities or the parents or guardians of such workers); 9 officials from workshops, hospitals, or institutions or from organizations of workshops, hospitals, or institutions; 1 member representing organized labor; 1 member representing industry (other than the sheltered workshop industry); 1 member representing a State vocational rehabilitation agency; 1 member representing a State labor department; and 1 member representing the public. The members are selected on the basis of their expertise and serve in their individual capacities, not as representatives of their organizations.

The Committee will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. The charter will be filed with GSA and the appropriate Congressional Committees.

Further information may be obtained from: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Room S3502, 200 Constitution Avenue NW., Washington, DC 20210, Phone 202-523-8305.

Signed at Washington, DC, this 16th day of September 1987.

William E. Brock,

Secretary of Labor.

[FR Doc. 87-21690 Filed 9-18-87; 8:45 am]

BILLING CODE 4510-27

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply For Worker Adjustment Assistance; Airfoil Textron, Inc.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 1, 1987.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 1, 1987.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 8th day of September 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Airfoil Textron Inc. (workers)	E. Windsor, CT	9/8/87	8/25/87	20.066	Blades & vanes.
Ampex Corp. (workers)	Colorado Springs, CO.	9/8/87	8/31/87	20.067	Video equipment.
Armco Building Systems (workers)	Nicholasville KY	9/8/87	8/27/87	20.068	Steel trusses.
Arrow Specialty Co. (workers)	Tulsa, OK	9/8/87	8/16/87	20.069	Oilfield engines.
Augat-Vitek, Inc. (workers)	El Paso, TX	9/8/87	8/27/87	20.070	Security devices.
Cumberland Steel Co. (workers)	Cumberland, MD	9/8/87	9/1/87	20.071	Bars.
Donaldson, Inc. (workers)	Nicholasville, KY	9/8/87	8/31/87	20.072	Muffers.
Duchess Footwear Corp. (workers)	S. Berwick, ME	9/8/87	8/24/87	20.073	Shoes.
Gleason Works (workers)	Rochester, NY	9/8/87	8/24/87	20.074	Tools.
L. Farber, Co. (workers)	Worcester, MA	9/8/87	8/21/87	20.075	Shoe components.
Malouf Mfg., CO. (workers)	Whitesbord, TX	9/8/87	8/13/87	20.076	Sportswear.
McFashion, Inc. (workers)	Mr. Carmel, PA	9/8/87	8/28/87	20.077	Blouses.
Oil Recovery Systems Corp. (O.R.S.) (workers)	Tulsa, OK	9/8/87	8/25/87	20.078	Oil & gas.
Olympic Exploration & Production Co. (workers)	Denver, CO	9/8/87	8/26/87	20.079	Oil & gas.
Otis Engineering, Corp. (workers)	Lindsay, OK	9/8/87	8/26/87	20.080	Oilfield machinery.
Paper Calmenson-Blade Operation (workers)	St. Paul, MN	9/8/87	8/13/87	20.081	Steel blades.
Powerex, Inc. (workers)	Auburn, NY	9/8/87	8/26/87	20.082	Semi-conductors.
Texaco, Inc. (workers)	Erath, LA	9/8/87	8/21/87	20.083	Gas.
Thermal Transfer Corp. (workers)	Monroeville, PA	9/8/87	8/30/87	20.084	Boilers.
Westinghouse Electric Corp. (I.B.E.W.)	Beaver, PA	9/8/87	8/28/87	20.085	Circuit breakers.
White Consolidated Industries (IUE)	Columbus, OH	9/8/87	8/28/87	20.086	Appliance parts.

[FR Doc. 87-21688 Filed 9-18-87; 8:45 am]

BILLING CODE 4570-30-M

[TA-W-18,329]

Notification of Revised Determinations on Reconsideration; AT&T Technologies, Inc., AT&T Technology Systems, Kansas City, MO

On June 18, 1987, the Department issued an Affirmative Determination Regarding Application for Reconsideration for former workers of AT&T Technologies, Inc., AT&T Technology Systems, Kansas City, Missouri. The affirmed notice regarding application for reconsideration was published in the Federal Register on June 30, 1987 (52 FR 24354).

Counsel for the Communication Workers of America (CWA) claims that workers in the "clean room" and "Epi room" were two separately identifiable groups of workers at the Kansas City plant involved in the production of 256 K semiconductor microchips which were impacted by increased imports. Counsel also claims that another "clean room" was not put into operation at Kansas City because of increased imports of semiconductor microchips.

On reconsideration, the Department found that workers in the "Epi room" and "clean room" at AT&T Technology Systems' plant in Kansas City produced wafers and metal oxide semiconductors (MOS) 256 K chips, respectively. A major percent of wafer production from the "Epi room" was integrated into the production of microchips produced in the "clean room".

On reconsideration, the Department reviewed counsel's claims and found that the entire production of the "clean room" in Kansas City had been integrated into the production of the 256 K Packaged Devices at AT&T Network Systems' Final Package and Test Data Department in Orlando, Florida. Workers in the Final Package and Test Data Department of AT&T Network Systems, Orlando, Florida were certified eligible to apply for worker adjustment assistance on September 3, 1987 (TA-W-20,037).

Counsel claims that a second "clean room" at the Kansas City plant was planned for the purpose of expanding its microchip production but was never opened. This would not form a basis for certification since there was no actual loss of production or sales. Section 222(2) of the Group Eligibility Requirements of the Trade Act states that sales or production, or both, of such firm or subdivision must have decreased absolutely.

Conclusion

After careful review of the additional facts obtained on reconsideration, it is concluded that increased imports of articles like or directly competitive with the 256 K Packaged Devices produced by the Final Package and Test Data Department at AT&T Network Systems' plant in Orlando, Florida contributed importantly to the decline in sales or production and to the total or partial separation of workers of the "Epi room" and "clean room" at AT&T Technology Systems in Kansas City, Missouri. In accordance with the provisions of the Trade Act of 1974, I make the following revised determinations:

All workers of the "Epi room" and "clean room" of AT&T Technologies, Inc., AT&T Technology Systems, Kansas City, Missouri who became totally or partially separated from employment on or after January 1, 1987 and before May 1, 1987 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

I further determine that all other workers at the Kansas City, Missouri plant are denied eligibility to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 14th day of September 1987.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 87-21691 Filed 9-18-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-19,868]

Dismissal of Application for Reconsideration; United Engineers and Constructors, Stearns Roger Division, Denver, CO

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at United Engineers and Constructors, Stearns Roger Division, Denver, Colorado. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-19,868; United Engineers and Constructors, Stearns Roger Division, Denver, Colorado (September 3, 1987)

Signed at Washington, DC, this 9th day of September 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-21693 Filed 9-18-87; 8:45 am]

BILLING CODE 4370-30-M

Mine Safety and Health Administration

[Docket No. M-87-202-C]

Petition for Modification of Application of Mandatory Safety Standard; Rainbow Coal Co.

Rainbow Coal Company, Route 2, Box 420, Corbin, Kentucky 40701 has filed a petition to modify the application of 30 CFR 75.313 (methane monitors) to its No. 1 Mine (I.D. No. 15-16040) located in Whitley County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a methane monitor be installed on any electric face cutting equipment, continuous monitor, longwall face equipment and loading machine and shall be kept operative and properly maintained and frequently tested.

2. Petitioner states that no methane has been detected in the mine. The three wheel tractors are permissible DC powered machines, with no hydraulics. The bucket is a drag type, where approximately 30-40% of the coal is hand loaded. Approximately 20% of the time that the tractor is in use, it is used as a man trip and supply vehicle.

3. As an alternate method, petitioner proposes to use hand held continuous oxygen and methane monitors in lieu of methane monitors on three wheel tractors. In further support of this request, petitioner states that:

(a) Each three wheel tractor will be equipped with a hand held continuous monitoring methane and oxygen detector and all persons will be trained in the use of the detector;

(b) A gas test will be performed, prior to allowing the coal loading tractor in the face area, to determine the methane concentration in the atmosphere. The air quality will be monitored continuously after each trip, provided the elapse time between trips does not exceed 20 minutes. This will provide continuous monitoring of the mine atmosphere for methane to assure any undetected methane is detected between trips;

(c) If one percent of methane is detected, the operator will manually deenergize his/her battery tractor immediately. Production will cease and will not resume until the methane level is lower than one percent;

(d) A spare continuous monitor will be available to assure that all coal hauling tractors will be equipped with a continuous monitor;

(e) Each monitor will be removed from the mine at the end of the shift, and will be inspected and charged by a qualified person. The monitor will also be calibrated monthly; and

(f) No alterations or modifications will be made in addition to the manufacturer's specifications.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 21, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: September 8, 1987.

[FR Doc. 87-21687 Filed 9-18-87; 8:45 am]

BILLING CODE 4510-43-M

LEGAL SERVICES CORPORATION

Grant Awards for Expansion and Development of Law School Civil Clinical programs; George Washington University & University of Texas at Austin

AGENCY: Legal Services Corporation

ACTION: Announcement of intention to make grant awards.

SUMMARY: The Legal Services Corporation (LSC) hereby announces its intention to award two grants to law schools to assist their clinical programs in providing service to LSC-eligible clients in civil cases. The one-year grants are being made as part of the 1987-88 Law School Civil Clinical Project, purusant to authority conferred by sections 1006(a) (1) (B) and 1006(a) (3) of the Legal Services Corporation Act of 1974, as amended. Law schools and grant amounts are:

George Washington University.....$37,200
University of Texas at Austin.....$39,848

The original announcement of funding availability under this program appeared in volume 52, No. 90, page 17649 of the **Federal Register** of May 11, 1987, and a list of other grantees appeared in Volume 52, No. 146, page 28495 of the **Federal Register** of July 30, 1987. Total funding under the 1987-88 Law School Civil Clinical Project is $1,114,384.

The Corporation requests public comments and recommendations on these intended grants. Grant awards will not become effective and grant funds will not be distributed prior to expiration of this thirty-day period. This public notice is issued pursuant to section 1007(F) of the Act.

DATE: Comments and recommendations must be received by the Program Development and Substantive Support Division of the Legal Services Corporation by October 21, 1987.

FOR FURTHER INFORMATION CONTACT: Charles T. Moses, III, Legal Services Corporation, Program Development and Substantive Support Division, 400 Virginia Avenue SW., Washington, DC 20024-2751, (202) 863-1837.

John H. Bayly, Jr.,

President.

[FR Doc. 87-21750 Filed 9-18-87; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL SCIENCE FOUNDATION

Grants; Program Announcement and Guidelines; Undergraduate Science, Engineering, and Mathematics Education; Career Access Opportunities in Science and Technology for Women, Minorities and the Disabled; Target Date for Preliminary Proposals: December 15, 1987

Please note.—The page and appendixes references in this document refer to, and are included in, the ACCESS Program Announcement and Guidelines. These appendixes are not included in this document.

The Career Access Program for Women, Minorities and the Disabled (ACCESS) is an integral part of NSF's overall plan to strengthen undergraduate science, engineering, and mathematics education throughout the United States. The NSF plan also includes support for: Instrumentation and Laboratory Improvement Program (ILI), Undergraduate Faculty Enhancement Program (UFE), Research Experiences for Undergraduates Program (REU), and the Undergraduate Curriculum Development Program (UCD).

The ACCESS Program will be coordinated by the newly established Office of Undergraduate Science, Engineering, and Mathematics Education (USEME), in the Directorate for Science and Engineering Education. The magnitude of the fiscal year 1988 ACCESS Program will depend on the quality of proposals the Foundation receives and the availability of funds.

Inquiries

Questions not addressed in this publication may be directed to the NSF staff by contacting:

Career Access Opportunities Program, Office of Undergraduate Science, Engineering and Mathematics Education, Directorate for Science and Engineering Education, Room 639, National Science Foundation, Washington, DC 20550, (202) 357-7051

Electronic Mail: Bitnet: undergrad@nsf, Arpanet, CSnet: undergrad@note.nsf.gov.

Career Access Opportunities in Science and Technology for Women, Minorities and the Disabled

I. Introduction

The National Science Foundation's mandate to ensure the vitality of the Nation's scientific enterprise includes responsibility for the quality, distribution and effectiveness of the human resource base in science and engineering. The underrepresentation of women, minorities, and the disabled in this resource base is of concern to the Foundation. The talent of a significant fraction of the potential pool of scientific and technological expertise is lost when substantial underrepresentation continues to exist. In response to this concern, the NSF Directorate for Science and Engineering Education has established a new Program: Career Access Opportunities in Science and Technology for Women, Minorities and the Disabled (ACCESS). The activities supported by this Program are Comprehensive Regional Centers for Minorities and Prototype and Model Projects. Although the categories of awards that will be described are expected to include the majority of projects supported through the Career Access Program, additional ideas and mechanisms will be considered by NSF.

II. Comprehensive Regional Centers for Minorities

A Purpose and Scope

This activity will support the establishment of major, regional centers designed to increase the minority presence in science and engineering. The projects are intended to be centered at colleges and universities with

significant minority enrollments, both institutionally and in science and engineering, and will have the objectives of:

Developing the institutional capability in undergraduate science, mathematics, and engineering education for minority students, particularly at the freshman and sophomore level;

Developing cooperative activities, with regional precollege schools having substantial minority enrollments, to improve science, mathematics and engineering education and to coordinate and facilitate the transition of minority students from high school to college status;

Stimulating and coordinating the efforts of other colleges and universities in the region, with substantial minority populations, to strengthen their undergraduate programs in science, mathematics, and engineering, and to serve as foci for additional cooperative activities in precollege science, mathematics and engineering education;

Taking a leadership role in nurturing and encouraging minority students to undertake graduate studies in science, mathematics and engineering by increasing the opportunities for such activities and by stimulating minority students confidence and interest.

Enhancing the potential for a stable, long term continuation of the project activities.

Proposals will be evaluated on their potential for achieving these objectives and on the more general evaluation criteria found in "Grants for Research and Education in Science and Engineering" (NSF 83-57, rev. 1/87), page 9.

B. Eligibility Criteria and Limitations

1. Eligible Institutions

Proposals may be submitted by U.S. colleges and universities with significant enrollments of minority [1] students in science and engineering and a demonstrated history of commitment to minority concerns. These aspects should be discussed with the Program staff by telephone and/or letter prior to proposal preparation.

2. Eligible Activities

Projects are expected to focus on instructional activities, with an undergraduate emphasis on the freshman and sophomore levels and extensive outreach to the school systems from elementary to high school. Community involvement at all levels will be an important aspect of project activities. Plans for evaluation and assessment will be required so that project development and implementation can be monitored at all stages.

Specific mechanisms might include teacher workshops, faculty seminars, enrichment experiences for students at all levels, materials development, conferences for parents and other interested members of the public, regional networks, etc. These activities will support the development of major centers for the instruction of minorities in science and engineering that will bring together into a coherent plan, a spectrum of efforts suited to the region. An important element to be sought in all projects is evidence of, and a mechanism for, nurturing minority students, beginning at an early age, through their education from elementary school through college.

Comprehensive Regional Centers for Minorities will necessarily be complex endeavors normally requiring considerable time and resources to implement fully. To develop the cooperation, coordinate the efforts, and marshall the resources of a region, will require an effort of some magnitude and duration. A region might comprise a set of school systems, instituitons and agencies covering a considerable geographic area of the geographic focus could be restricted to a more densely populated metropolitan area. In either case, the full involvement and participation of all of the appropriate organizations, groups, and individuals will be critical. Given this complexity and sensitivity, the activities in a project might initially begin on a modest scale and proceed in stages to full implementation as the total complement of organizations are brought into play. However, the extent of implementation in the intitial stage of a project will vary depending on the past history of experience and accomplishment in regional cooperative activities dealing with minority concerns.

Supportable activities could include developmental aspects such as the establishment of formal commitment and networks among the various target sectors of the region (including operating structures), the establishment and functioning of advisory committees with appropriate regional and wider representation, and regional conferences to solicit community input and support (including financial support). Implementation activities ranging from pilot or prototype in natures to fully develop (depending on the circumstances) could be included. Since regional cooperation and commitment are critical aspects of a Comprehensive Regional Center for Minorities, convincing evidence that these conditions already exist in the region must be presented, or activities to establish them must be proposed, as one of the essential features of a proposal.

It should be emphasized again that a blend of developmental and implementation activities is quite appropriate in a project. The balance between them will vary depending on the history of previous similar activities in the region. The magnitude of the total effort initially proposed will likewise vary depending on the same factors. In any event, since it is expected that projects will evolve and change with time, the Foundation will take the position of responding flexibly and positively to changing circumstances suject only to the condition that increasing the participation of minorities in science, mathematics, and engineering remains the fundamental goal and expectation.

C. Awards and Duration

The initial grant under the Comprehensive Regional Center for Minorities will depend on the extent and scope of activities and the stage of development represented. For projects with a significant focus on developmental activities or prototype implementation an initial award of $100,000–$200,000 might be appropriate. For projects involving extensive implementation and a full complement of regional activities, awards of up to $1,000,000 per year would be in order. Projects intermediate in nature between the two examples quoted would involve funding totals and duration times consistent with their scope.

It should be emphasized that in the long term, Comprehensive Regional Centers for Minorities Projects are intended to be major efforts to develop regional resource centers with support in the range of $4–5,000,000 over a five year period. It is expected that fully developed projects will show a reduction in NSF support and an increased level of support from other quarters during the term of the grant.

III. Prototype and Model Projects for Women, Minorities and the Disabled

A. Purpose and Scope

A principal goal of this activity is to increase the participation of women, or minorities, or the disabled in careers in science, mathematics, and engineering by encouraging *all* colleges and universities and *other eligible*

[1] For the purpose of this announcement, minorities are defined as members of those racial and ethnic groups underrepresented in science and engineering: American Indians, Blacks, Hispanics, Native Alaskans, or Native Pacific Islanders.

organizations to design and create special instructional and outreach activities which are innovative, and intended to be models with high potential for dissemination and extended impact. *In the longer term, these projects are also intended to offer the possibility of becoming the initial stages in the development of Comprehensive Regional Centers directed at any of the underrepesented target audiences.* Objectives should include:

Identifying effective strategies, activities, and/or materials to encourage entry into, or improve retention by members of the target audience in the scientific/technological enterprise of the Nation.

Testing these strategies, activities, and/or materials in an institutional community or wider context to validate those having greatest utility for the various target groups.

Evaluating and assessing the potential for wider dissemination of successful project outcomes.

Disseminating the more successful models by an active transport system.

Proposals will be evaluated on their potential for achieving these objectives and on the more general criteria found in "Grants for Research and Education in Science and Engineering" (NSF 83–57, rev. 1/87).

B. Eligibility Criteria and Limitations

1. Eligible Organizations

The ACCESS Program will accept proposals initiated by scientists, engineers, mathematicians and educators submitted by their employing organizations. These include colleges and universities, national laboratories, professional societies, other non-profit organizations, for-profit industries with the scientific expertise and facilities, and other organizations which can conduct the described activities.

2. Eligible Activities

Prototype and Model Projects are not intended to be comprehensive or major efforts. Therefore, projects should be sharply focused on a defined target audience with a special characteristic or need, as for example, a project specially designed for the hearing-impaired, or one focusing on the significant underrepresentation of women in geology or physics, etc.

An individual project might be directed at one or more of the following activities: Awareness seminars for college and/or precollege faculty, consideration of math and science "anxiety", subject-matter workshops oriented to the special needs of the target group, recruitment efforts and attention to the problem of retention at the various entry and exit points in the pipeline, role model activities, development of educational materials, software, or technologies specially designed for the target group, etc. However, a principal purpose of this activity is to encourage faculties and administrations to test new ideas and to test as yet untried mechanisms for increasing the numbers of underrepresented groups who are successfully taking up the study of science and engineering.

C. Awards and Duration

Support will normally not exceed $100,000 per year for up to two years.

IV. Proposal Preparation and Submission

Proposal Preparation

Proposers are urged to initiate discussions with the Program staff by telephone or by letter before preparing a proposal for either activity. In some instances, a preliminary proposal will be required. The target date for submission of *preliminary* proposals to Comprehensive Regional Centers for Minorities is December 15, 1987. The submission of *formal* proposals for this activity will be governed by individual circumstances. Proposals for Prototype and Model Projects will be accepted at any time.

Proposers should consult the publication Grants for Research and Education in Science and Engineering (GRESE) (NSF 83–57 rev. 1/87), for additional guidance. This publication is available from the Forms and Publications Unit, National Science Foundation, 1800 G Street NW., Washington, DC. 20550; (202/357–7452). ACCESS proposers must use the forms contained in this announcement, not those in GRESE.

Except as modified by the guidelines set forth in this announcement, standard, NSF guidelines on proposal preparation, submission, evaluation, NSF awards (general information and highlights), declinations and withdrawals contained in GRESE are applicable.

More comprehensive information is contained in the NSF Grant Policy Manual, Revised, (NSF 77–47) available for purchase at $12.00 from the Superintendent of Documents, Government Printing Office, Washington, DC 20402.

In the event that the submitting organization has never been the recipient of an NSF award, it is recommended that appropriate administrative officials become familiar with the NSF policies and procedures contained in the NSF Grant Policy Manual, Revised, which are applicable to most NSF awards. (If a proposal from such an institution is recommended for an award, the NSF Division of Grants and Contracts will request certain organizational, management, and financial information. These requirements are contained in Chapter III of the Manual.)

An ACCESS proposal consists of the following parts:

0. Information About Principal Investigator (NSF form 1225)
1. Cover Sheet
2. Project Summary Form
3. Detailed Budget (NSF form 1030)
4. Narrative (Limited to 15 double-spaced pages)
5. Current and Pending Support (NSF 1239)

0. Information About Principal Investigator Form 1225, Information about Principal Investigators, which provides data on sex, ethnic origin, and handicap, is found on page 00. Only one copy of this form is to be submitted. It should be attached to the signature copy of the proposal cover sheet. While providing the requested data is voluntary, SUBMITTING THIS FORM IS REQUIRED BY NSF. OMMISSION OF THIS FORM WILL CAUSE CONSIDERABLE DELAY IN PROCESSING THE PROPOSAL. Any individual not wishing to submit the information should check the box provided for this purpose. Data will be treated as confidential, and will be maintained in secure data files in accordance with the Privacy Act of 1974. The information contained in this form will be available only to the NSF staff and will not be used in the external merit review process. All analyses conducted on the data will report aggregate statistical findings only and will not identify individuals.

1. *Cover Sheet.* The first page of the proposal will be the cover sheet prepared in the form found on page 00. This cover sheet form should be duplicated and completed. It must bear the signatures of the proposed principal investigator and of an administrative official who is empowered to commit the proposing organization to the conduct and prudent management of the project if NSF agrees to support it.

It is important that the cover sheet be completed with the full information requested. Most of the items are self-explanatory. Note that:

- Social security numbers are used by the Foundation to monitor and facilitate

the receipt and processing of numerous proposals, as well as to maintain award data. The number is solicited pursuant to the general authority of the Foundation under the NSF Act of 1950, as amended. However, submission of social security numbers is voluntary and refusal to disclose a social security number will not affect any proposal's eligibility for an award.

• If funds for this project are being requested from another Federal agency or another NSF program, this must be indicated in the upper right hand section of the cover sheet.

2. *Project Summary Form.* The second page of the proposal will be the project summary form, which should follow the cover sheet. The information provided on this form is used by the program staff for a variety of purposes, including the proper assignment of proposals to reviewers. Name of institution and project title must be written exactly as given on the cover sheet. Please enter the data requested in the boxes according to the instructions on the back of the form. The information is needed in the indicated format to provide direct input to the NSF data collection system. The Summary of Proposed Work should be a concise description of the project proposal, limited to 22 pica or 18 elite lines. It should be single spaced. The summary should tell briefly the aim of the project and why the project is significant. Considerable care should be taken when writing the Summary. The Summary is the reviewers' first impression of the project's merit. If the project is supported, the Summary will be published by the Foundation to inform the general public about its programs. Accordingly, it should be written so that a scientifically literate layperson can understand the use of Federal funds in support of the project.

3. Detailed Budget. Complete NSF form 1030 according to the instructions on the back of the form.

4. *Proposal Narrative.* In composing the narrative, the principal investigator is urged to bear in mind the criteria to be used by reviewers in judging the merits of the proposal. The narrative section must not exceed 15 double-spaced pages. Pages must be numbered.

5. *Current and Pending Support.* All current and pending support must be listed on NSF form 1239 included as Appendix V of this document.

Material that is supplementary to the narrative of the proposal should be included in the appendices, and may be single spaced. Each appendix should be printed on colored paper to make it easily distinguishable from the body of the proposal. The following appendices are required.

1. Curriculum vitae of the principal investigator, plus a one-page resume for each staff member who will participate in the project.

2. Statement of current and pending support. All current and pending externally-funded support to the principal investigator and co-principal investigator (if any), including this proposed project, must be listed on the form found in the appendices of this document, even if this proposed project is the *only* item to list. This information is needed to assure that the project leaders will have time to carry out the project and that there is no duplication of support.

3. Statement of results of prior support. If either the prospective principal investigator or the co-principal investigator received support from any of NSF's targeted programs for women, minorities or the disabled in the last five years, the proposal must include and appendix entitled "Results from Prior NSF Support". This appendix must describe any such project(s) and the outcomes in sufficient detail to permit a reviewer to reach an informed conclusion on the value of the results achieved. The following information must be included in this summary statement:

The NSF award number, amount, and period of support;

Title of the project;

A summary of the results of the completed work; and

A list of publications and/or formal presentations acknowledging the NSF award.

Proposals must be self-contained documents. Reviewers will not have access to ancillary reports or institutional catalogs. Each proposal should contain the following items in order (samples of all of the required forms can be found in the appendices of this announcement):

Proposal Submission

Proposals must be received in the Foundation by 5:00 p.m. on the appropriate due date to insure inclusion in the competitive review process established for this Program.

Materials required:

Fifteen legible copies of the complete proposal;

One copy of the NSF form, 1225 attached to the signature copy of the proposal only;

Three sets of extra forms, each stapled into a unit and containing

One copy of the Cover Sheet,

One copy of the Budget, and

One copy of the Project Sumamry Form.

These materials should be submitted to: USEME/SEE—ACCESS PROGRAM, Proposal Processing Unit, Room 223, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

V. Proposal Evaluation

The proposal format and general criteria to be used in the evaluation of all proposals coming to the Foundation are described in "Grants for Research and Education in Science and Engineering" (NSF 83–57, rev. 1/87). The general evaluation criteria are:

Performance competence
Intrinsic merit
Utility or relevance
Effect on the infrastructure of science and engineering

Proposals will be evaluated using these standard NSF criteria, plus the following criteria as appropriate:

Magnitude of impact on target population;

Potential to sustain and institutionalize project activities beyond the NSF grant period;

Appropriativeness and cost-effectiveness of the project relative to its objectives and anticipated results;

Extent to which the project builds partnerships and networks;

Adequacy of evaluation plans to determine outcomes and effects of proposed activities;

Uniqueness of the project and potential for its replication;

Inquiries should be addressed to: Career ACCESS Opportunity Program, Office of Undergraduate Science, Engineering, and Mathematics Education, Room 639, National Science Foundation, Washington, DC 20550, Telephone: (202) 357–7051.

VI. Other Related Programs

The NSF Guide to Programs (NSF 87–57) briefly describes all Foundation programs, most of which are open to all institutions. It is available at most institutions or may be obtained at no cost by contacting the Forms and Publications Unit, Room 232, NSF, Washington, DC 20550 (202/357–7861). Some programs of special interest to undergraduate faculty are described below.

• The NSF has several programs directed toward improving precollege science, mathematics and technology education. In most cases, college and university faculty write proposals and direct the projects supported by these programs. For information on Applications of Advanced Technologies, Informal Science Education, Instructional Materials Development, or Research in Teaching and Learning,

contract the Division of Materials Development, Research and Informal Science Education, Room 635, NSF, Washington, DC 20550 (202/357-7452). For information on Science and Mathematics Education Networks, Teacher Preparation, Teacher Enhancement, or Presidential Awards for Excellence in Science and Mathematics Teaching, contact the Division of Teacher Preparation and Enhancement, Room 635, NSF, Washington, DC 20550 (202/357-7073).

• Information on Graduate Research Fellowships and Minority Graduate Research Fellowships may be obtained by contacting the National Research Council, 2101 Constitution Avenue, Washington, DC 20418.

• Research Experiences for Undergraduates (REU) provides an opportunity for college students to gain hands-on experience in science, mathematics or engineering research programs or equivalent projects conducted with the needs of undergraduates in mind. REU provides funds to operate REU Research Participation Sites. Each such site usually will involve several college students. REU also will supplement ongoing NSF research awards to enable them to provide research training experience for one or two undergraduates. More information is available through the REU Brochure, NSF 87-63 (copies of which may be obtained from the Forms and Publications Unit, NSF, Washington, DC 20550), or from the Divisional REU Coordinator, (Name of Discipline), NSF, Washington, DC 20550. Names and telephone numbers of the REU Coordinators for the various disciplines are listed in the REU brochure.

• The Undergraduate Faculty Enhancement Program (UFE) offers Grants for Undergraduate Faculty Seminars and Conferences to provide opportunities for groups of faculty to learn about new techniques and new developments in their fields. Awards are made to conduct seminars, short courses, workshops or similar activities for groups of faculty members from outside the grantee institution. For further information about the Undergraduate Faculty Enhancement Program, contact the Office of Undergraduate Science, Engineering, and Mathematics Education, Room 639, NSF, Washington, D.C. 20550 (202/357-7051).

• Through Research Opportunity Awards (ROA), faculty members at institutions with limited research opportunities may work with investigators who already hold or are applying for an NSF research grant. The experience gained under ROA may help the faculty member from the participating institution to become more competitive in submitting an independent research proposal, and may provide experience that will be reflected in improved teaching at the home institution. Full-time faculty members interested in ROA collaborations must make their own arrangements with a host investigator and institution. Formal application to NSF is made by the host institution as part of an initial proposal to NSF or, if an award already is in progress, as a supplement to that award. For further information about Research Opportunity Awards, contact the Research Opportunities Award Program, Room 1225, NSF, Washington, DC 20550 (202/357-7456)

• The Research in Undergraduate Institutions (RUI) activity is part of the Foundation's effort to broaden the base for science and engineering research and to enhance the scientific and technical training of students. The objectives of the RUI activity are to strengthen the research environments in academic departments that are oriented primarily to undergraduate education in science and engineering, and to promote the coupling of research and education at predominantly undergraduate institutions. RUI provides support for research and research equipment for investigators in non-doctoral departments in predominantly undergraduate institutions. RUI proposals are evaluated and funded on a competitive basis by NSF's research programs. For further information contact the Division of Research Initiation and Improvement, Room 1225, NSF, Washington, DC 20550 (202/357-7456).

• NSF's Facilitation Awards for Handicapped Scientists and Engineers (FAH) activity enhances opportunities for disabled individuals to participate in research. Funds are provided to purchase special equipment, modify equipment, or provide other services required specifically for the work undertaken on an NSF-supported project (see NSF 84-62, Rev 5-87). Funds from regular program budgets are provided for handicapped senior personnel, other professionals, and students, as a supplement to an existing award or as part of a new award. General inquiries may be made to the Coordinator, Facilitation Awards for Handicapped Scientists and Engineers, Room 1225, NSF, Washington, DC 20550 (202/357-7456).

• The Minority Research Initiation Program (MRI) supports research by minority scientists and engineers who hold full-time faculty or research-related positions, who (1) are members of ethnic minority groups that are significantly underrepresented in the science and engineering career pool; (2) have not previously received Federal research support as faculty members; and (3) wish to initiate research efforts on their campuses, thereby increasing their ability to compete successfully for other research support. Information about programs for minority scientists and engineers may be obtained from the MRI Program Director, Room 1225, NSF, Washington, DC 20550 (202/357-7350).

• The Visiting Professorships for Women Program (VPW) enables experienced women scientists and engineers to undertake advanced research at a host institution—a university or 4-year college which has the necessary facilities. In addition to her research responsibilities, the visiting professor undertakes lecturing, counseling and other activities to increase the visibility of women scientists in the academic environment of the host institution, and to provide encouragement for other women to pursue science, mathematics or engineering careers. Additional information may be obtained by contacting the VPW Program Director, Room 1225, NSF, Washington, DC 20550 (202/357-7734).

• The Research Opportunities for Women Scientists and Engineers Program (ROW) is designed to provide opportunities for independent research for women who previously have not been principal investigators, or who are reentering the research community. Additional information may be obtained by contacting the ROW Coordinator, NSF, Washington, DC 20550 (202/357-7734).

• The Undergraduate Curriculum Development Program includes two components: Engineering Curriculum Development and Calculus Curriculum Development.

—The Undergraduate Engineering Curriculum Development Program is designed to revise and improve undergraduate engineering education. There is a pressing need to revise the curricula of undergraduate engineering education with a view toward more emphasis on the laboratory experience and on technology-driven fields such as design, manufacturing, and computer-integrated engineering. There is also a need to explore the use of new technologies to improve the quality and productivity of the undergraduate engineering education system. Additional information about this program may be obtained from the

Undergraduate Engineering Curriculum Development Program, Room 1238, NSF, Washington, DC., 20550 (202/357–5102).

—The Division for Mathematical Sciences Undergraduate Curriculum Program supports proposals that will have significant impact on the nature of calculus instruction in this Nation through the development of model curricula and prototypical instructional materials. For additional information contact the Division of Mathematical Sciences, Room 339, NSF, Washington, DC 20550 (202/357–9669).

• MOSIS is a joint NSF/DARPA Program that allows qualifying universities to use the DARPA fast turnaround VLSI implementation facility as part of university based research and educational programs. Students taking undergraduate VLSI design courses can now have digital systems that they design, fabricated and packaged and returned to them for testing and experimentation. For more information, contact the Division of Microelectronic Information Processing Systems, Room 504, NSF, Washington, DC 20550 (202/357–7853).

• The goal of the Instrumentation and Laboratory Improvement Program is to improve the quality of the undergraduate curriculum by supporting projects to develop new or improved instrument-based undergraduate laboratory and/or field courses in science, mathematics or engineering. For additional information contact the Office of Undergraduate Science, Engineering and Mathematics Education, Room 639, NSF, Washington, DC 20550 (202/357–7051).

The Foundation welcomes proposals on behalf of all qualified scientists and engineers, and strongly encourages women, minorities, and the disabled to compete fully in any of the programs described in this document.

In accordance with Federal statutes and regulations and NSF policies, no person on grounds of race, color, age, sex, national origin, or disability shall be excluded from participation in, denied the benefits of, or be subject to discrimination under any program or activity receiving financial assistance from the National Science Foundation.

NSF has TDD (Telephone Device for the Deaf) capability which enables individuals with hearing impairment to communicate with the Division of Personnel and Management for information relating to NSF programs, employment, or general information. This number is (202) 357–7492.

The Foundation provides awards for research in the sciences and engineering. The awardee is wholly responsible for the conduct of such research and preparation of the results for publication. The Foundation, therefore, does not assume responsibility for such findings or their interpretation.

Catalogue of Federal Domestic Assistance Numbers: 47.071 Science and Engineering Education

Animal Welfare

If any of the equipment listed in a ILI proposal is likely to be employed in conducting experiments using non-human vertebrate animals or in maintaining such animals in captivity, the "Animal Welfare" block on the cover sheet must be checked. In such proposals, the narrative must contain an assurance that the proposing institution complies with the relevant guidelines issued by the National Institutes of Health in the *Guide for the Care and Use of Laboratory Animals* (NIH Publication 85–23, Revised 1985). The particular attention of proposers is directed to "U.S. Government Principles for the Utilization and Care of Vertebrate Animals Used in Testing, Research and Training", to be found in the Appendix of that Guide. Individuals desiring a copy of these Guidelines can obtain one from the Division of Research Services; Building 31, Room 4B59, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892. (NSF does not maintain a supply of this document).

Robert F. Watson,

Acting Head, Office of Undergraduate Science, Engineering and Mathematics Education.

September 16, 1987.

[FR Doc. 87–21731 Filed 9–18–87; 8:45 am]

BILLING CODE 7555–01–M

Grants, Undergraduate Science, Engineering and Mathematics Education; Instrumentation and Laboratory Improvement; Program Announcement and Guidelines

The Instrumentation and Laboratory Improvement Program (ILI) is an integral part of NSF's overall plan to strengthen U.S. undergraduate education. In fiscal year 1988, this support extends to instructional instrumentation, research opportunities for undergraduate students, faculty enhancement, and curriculum development in undergraduate calculus and engineering. ILI will be coordinated by the newly established Office of Undergraduate Science, Engineering, and Mathematics Education (USEME) but proposals will be reviewed collaboratively and funded throughout NSF.

ILI, which builds on the College Science Instrumentation Program (CSIP), is budgeted in the Science and Engineering Education Directorate (SEE), with additional support budgeted through the research directorates. ILI broadens institutional eligibility to include universities and two-year colleges and increases the maximum amount of funds that may be requested in a proposal. The magnitude of the fiscal year 1988 ILI Program will depend on the quality of proposals the Foundation receives and the availability of funds.

Inquiries

Questions of a general nature not addressed in this publication may be directed to the NSF staff by contacting:

Instrumentation and Laboratory Improvement Program, Office of Undergraduate Science, Engineering, and Mathematics Education, Directorate for Science and Engineering Education, Room 639, National Science Foundation, Washington, DC 20550, Telephone: (202) 357–7051. Electronic Mail: Bitnet: undergrad@nsf. Arpanet, CSnet: undergrad@note.nsf.gov.

Other inquiries may be directed to the following offices:

Biological, Behavioral and Social Sciences: (202) 357–9880.

Computer and Information Science and Engineering: (202) 357–7936.

Engineering: (202) 357–5102.

Geosciences: (202) 357–7615.

Mathematical and Physical Sciences:

Astronomical Sciences: (202) 357–7622.

Chemistry: (202) 357–7503.

Materials Research: (202) 357–9737.

Mathematical Sciences: (202) 357–3695.

Physics: (202) 357–7611.

Scientific, Technological and International Affairs: (202) 357–7456.

Please Note

The page and appendixes references in this document refer to, and are included in, the ILI Program Announcement and Guidelines. These appendixes are not included in this document.

Undergraduate Science, Engineering, and Mathematics Education Instrumentation and Laboratory Improvement Program

I. Program Description

A. Purpose and Scope

Undergraduate instruction is a vital element in the preparation of our Nation's future scientists and engineers, teachers, leaders in business and

government and technically literate citizens. Students in undergraduate science, engineering and mathematics courses—majors and non-majors alike—must have laboratory and/or field experiences with suitable, up-to-date equipment in order to become involved in the work that is at the heart of scientific progress and understanding.

The goal of NSF's Instrumentation and Laboratory Improvement program (ILI) is to improve the quality of the undergraduate curriculum by supporting projects to develop new or improved instrument-based undergraduate laboratory and/or field courses in science, mathematics or engineering. ILI provides matching support for the instrumentation necessary to implement undergraduate instructional improvements at U.S. two-year and four-year colleges and universities.

ILI proposals are evaluated and funded collaboratively by NSF's education and research directorates. In this way, ILI is fully integrated into ongoing research and education activities of the Foundation.

The specific objectives of ILI are to encourage and support the:

- Introduction of modern instruments to improve the education of undergraduate students in science, mathematics and engineering courses, laboratories, and field work;
- Interfacing of computers with scientific instrumentation and other appropriate uses of current technology in science, mathematics and engineering instruction;
- Development of new ways for using instrumentation to extend instructional capabilities; and
- Establishment of equipment-sharing capability via consortia or centers.

The strategy underlying the highly competitive nature of the Instrumentation and Laboratory Improvement program is to produce projects that will:

- Set standards for instrumentation and its instructional use against which other institutions can measure their own performance: Standards which they will strive to equal or exceed;
- Yield products such as laboratory manuals, scholarly publications, etc., thus serving a common good as well as bringing local improvement.

The Program supports well-focused projects which will result in a clear improvement in the quality of undergraduate education. This may be done by providing for:

- Acquisition of new, state-of-the-art instructional scientific equipment;
- Upgrading of obsolete or unreliable equipment with current models that significantly improve instructional capabilities.

Because the objective of the program is to improve the quality of instruction, projects based primarily on financial need or increased enrollments are not appropriate. Projects are expected to involve activities which go well beyond the basic level of support that the institution itself must provide in order to maintain a viable teaching program.

Although the categories of awards just described are expected to include the majority of projects supported through ILI, additional ideas and mechanisms will be considered by NSF.

ILI seeks proposals that request funds for instructional scientific equipment. A maximum of $100,000 may be requested from NSF; grantee institutions must provide an equal or greater matching contribution. (See the requirements for matching funds below.) The minimum grant request to ILI is $5,000 in NSF funds.

Grants in support of ILI activities routinely are made for a period of 30 months. It is expected that the requested equipment will be acquired during this time.

Presentation of the results of successful projects at professional meetings or in appropriate journals is highly encouraged in order that institutions other than the grantees also may benefit from ILI projects.

B. Eligibility Criteria and Limitations

1. Eligible Institutions. Proposals to the Instrumentation and Laboratory Improvement program will be accepted from:

a. All two-year colleges, four-year colleges, and universities in the United States or its territories;

b. Any formally organized consortium of institutions which has an established central office and an approved fiscal management capability. Proposals from informal consortia of institutions are not eligible.

Proposals from a consortium should be submitted only in those instances when several institutions propose to make joint use of a single major piece (or an assemblage of closely related pieces) of equipment.

2. Eligible Fields. The Foundation will consider proposals for support of projects in:

- Any field of science, mathematics and engineering ordinarily supported by the National Science Foundation, including the mathematical, physical and biological sciences, the social sciences, computer science, and engineering. A detailed list is shown on page 00.
- Interdisciplinary fields composed of overlapping areas of two or more eligible sciences.
- Multiple disciplines—as distinct from interdisciplinary fields. Multidisciplinary proposals should be submitted only in instances where several departments propose to make joint use of a single major piece of equipment, or an assemblage of closely related pieces of equipment. Departments are advised not to combine individual proposals in order to submit them in the multidisciplinary category; each department should submit its own proposal unless equipment is to be shared.

Specifically excluded from ILI support are:

- Projects addressed to clinical fields associated with the sciences, such as medicine, nursing, clinical psychology and physical education.
- Projects which primarily involve social work, home economics, or the arts and humanities.

3. Eligible Departments and Individuals.

- All science, mathematics and engineering departments in an eligible institution may participate in the ILI competition. ILI does not impose the constraint of "one proposal per department" that previously applied to NSF's College Science Instrumentation Program.
- Each principal investigator may submit only one ILI proposal per closing date. While one or more co-principal investigators may be named, one specific individual must be identified on the cover sheet as *the* principal investigator.

4. Eligible Activities. Although ILI proposals are encouraged for the improvement of formal courses and laboratories traditionally associated with undergraduate instruction for science, mathematics or engineering majors, the Program is in no way restricted to these activities. Examples of other equally welcome activities include:

- Projects aimed at acquainting nonscience majors with the principles and methods of science, mathematics and engineering, or with the impact of science and technology on society;
- Projects concerned with the undergraduate science education of prospective teachers that emphasize science content or teaching methods especially relevant to the sciences;
- Projects that involve fundamental scientific, mathematical or engineering concepts within technical, professional or pre-professional programs;

• Projects to improve undergraduate honors programs, student research and independent study. (See also the program announcements for Research Experiences for Undergraduates, NSF 87.63, and Research in Undergraduate Institutions, NSF 85-59).

Projects involving women, minorities, and/or disabled persons as part of the staff or as target audiences are especially encouraged, particularly if they represent models for increasing the numbers of qualified young people in these groups who may decide to choose careers in mathematics, science, and engineering.

5. Eligible Equipment. The types of equipment eligible for inclusion in a ILI proposal are listed under the section "Detailed Budget".

The primary use of each of the equipment items to be acquired must be to benefit of undergraduate science, mathematics and/or engineering instruction. Items may serve additional purposes in the department at those times when they are not being used for undergraduate instruction, but these ancillary uses neither form nor augment the justification required for ILI funding.

6. Ineligible Items. Neither NSF funds nor institutional matching funds may be used to purchase any of the ineligible items listed below:

• Teaching Aids (e.g., films, slides, projectors, "drill and practice" software), word-processing equipment, library reference materials, or expendables (e.g., glassware, chemicals);

• Faculty research instrumentation;

• Laboratory furnishings or general utility items such as office equipment, benches, tables, desks, chairs, laboratory carts, storage cases, routine supplies and general consumables;

• Maintenance or service contracts—even when these are for equipment procured through the ILI program;

• Salaries, honoraria, consulting fees, travel, etc.;

• Institutional indirect costs or overhead;

• Costs of building or laboratory modification, or construction; and

• A flat percentage inflation allowance.

7. Eligible Project Size. As noted previously, no proposal may request more than $100,000 from NSF; project costs in excess of $200,000 must be funded by overmatching. Proposals requesting less than $5,000 from NSF (for a total minimum project cost of $10,000) are not eligible.

C. Requirements for Matching Funds

A proposing institution must agree to provide matching funds in an amount equal to or greater than the funds provided by the Foundation. The proposal budget must detail all expenditures for the project as a whole—that is, for the combined total of requested NSF funds and the institution's funds. Matching funds must be from non-Federal sources. Funds from an ILI grant, or the institutional matching contribution to it, may not be counted as an institutional contribution to another Federally supported project. If a grantee receives a gift of equipment from non-Federal sources that is identical or equivalent to items listed in the project's approved budget, the cash value of such gifts may be counted as institutional matching funds.

An institution may obligate its matching funds or receive gifts to be counted toward matching at any time following the closing date which the awarded proposal was submitted, but before the grant expiration date specified in the grant document. This normally provides a period of nearly three years during which the institution must fulfill the agreement to match NSF funds. To count as matching, these funds must be used specifically for the equipment listed in the project's approved budget (or its equivalent).

II. Preparation and Submission of Proposals

A. General Information

This announcement sets forth basic information needed to initiate planning for proposal submission. Proposals must also consult the publication Grants for Research and Education in Science and Engineering (GRESE) (NSF 83-57 rev. 1/87), for additional guidance. This publication is available from the Forms and Publications Unit, National Science Foundation, 1800 G Street NW., Washington, DC 20550; (202) 357-7452. ILI proposers must use the forms contained in this announcement (pp. 00—00), not those in GRESE.

Except as modified by the guidelines set forth in this announcement, standard NSF guidelines on proposal preparation, submission, evaluation, NSF awards (general information and highlights), declinations and withdrawals contained in GRESE are applicable.

More comprehensive information is contained in the NSF Grant Policy Manual, Revised (NSF 77-47) available for purchase at $12.00 from the Superintendent of Documents, Government Printing Office, Washington, DC 20402. The Grant Policy Manual ordinarily is not needed in the process of preparing a ILI proposal.

In the event that the submitting organization has never been the recipient of an NSF award, however, it is recommended that appropriate administrative officials become familiar with the NSF policies and procedures contained in the NSF Grant Policy Manual, Revised, which are applicable to most NSF awards. (If a proposal from such an institution is recommended for an award, the NSF Division of Grants and Contracts will request certain organizational, management, and financial information. These requirements are contained in Chapter III of the Manual.)

B. Proposal Preparation

A successful proposal must outline the way in which the planned project will improve the present program of undergraduate science, mathematics or engineering instruction. Each proposal should demonstate that:

• The plan is a logical step to take at this time toward developing the academic program in question;

• Informed, realistic planning already has taken place;

• The faculty are competent to carry out the project; and

• Provision of the requested equipment will make possible full implementation of the improvements proposed.

The equipment requested must be appropriate for the project's objectives. Since the Foundation aims to support projects with maximum potential for continuing impact, each proposal should show how the equipment fits into the department's current holdings and give a clear outline of the institution's plans for the extended care and maintenance of the equipment.

C. Proposal Format

A proposal to ILI consists of the following parts:

1. Cover Sheet
2. Project Summary Form
3. Detailed Budget (Equipment List)
4. Narrative (Limited to 12 double-spaced pages)
5. Appendices

1. Cover Sheet. The first page of the proposal will be the cover sheet prepared in the form found on page 00. This cover sheet form should be duplicated and completed. It must bear the signatures of the proposed principal investigator and of an administrative official who is empowered to commit the proposing organization to the conduct and prudent management of the project if NSF agrees to support it.

It is important that the cover sheet be completed with the full information requested. Most of the items are self-explanatory. Note that:

• Social security numbers are used by the Foundation to monitor and facilitate the receipt and processing of numerous proposals, as well as to maintain award data. The number is solicited pursuant to the general authority of the Foundation under the NSF Act of 1950, as amended. However, submission of social security numbers is voluntary and refusal to disclose a social security number will not affect any proposal's eligibility for an award.

• If funds for this project are being requested from another Federal agency or another NSF program, this must be indicated in the upper right hand section of the cover sheet. If they are not being so requested at the time of proposal submission, but are requested subsequently (prior to the Foundation's anticipated ILI announcement date), a letter so stating should be sent at that time to the ILI office. This letter should identify the proposal by its NSF number.

• Form 1225, Information about Principal Investigators, which provides data on sex, ethnic origin, and handicap, is found on page 00. Only one copy of this form is to be submitted. It should be attached to the signature copy of the proposal cover sheet. While providing the requested data is voluntary, *Submitting this form is required by NSF. Omission of this form will cause considerable delay in processing the proposal.* Any individual not wishing to submit the information should check the box provided for this purpose. Data will be treated as confidential, and will be maintained in secure data files in accordance with the Privacy Act of 1974. The information contained in this form will be available only to the NSF staff and will not be used in the external merit review process. All analyses conducted on the data will report aggregate statistical findings only and will not identify individuals.

2. Project Summary Form. The second page of the proposal will be the project summary form (page 00), which would follow the cover sheet. The information provided on this form is used by the program staff for a variety of purposes, including the proper assignment of proposals to reviewers. Name of institution and project title must be written exactly as given on the cover sheet. Please enter the data requested in the boxes according to the instructions on the back of the form. The information is needed in the indicated format to provide direct input to the NSF data collection system.

The Summary of Proposed Work should be a concise description of the project (not of the proposal), limited to 22 pica or 18 elite lines. It should be single spaced. The summary should tell briefly the aim of the project, the major instruments which will be purchased, in what applications they will be used, and why the project is significant. Considerable care should be taken when writing the Summary. The Summary is the reviewers' first impression of the project's merit. If the project is supported, the Summary will be published by the Foundation to inform the general public about its programs. Accordingly, it should be written so that a scientifically literate layperson can understand the use of Federal funds in support of the project.

3. Detailed Budget. The third page of the proposal will be the budget prepared according to the format on page 00. This is a complete, detailed list of anticipated equipment acquisitions showing list and discounted unit prices and discounted totals. The budget must be limited to the following categories, with a subtotal shown for each:

a. Scientific Equipment
b. Computing Equipment
c. Construction of Equipment
d. Safety Equipment
e. Maintenance Equipment
f. Shipping Costs

Guidelines for the assignment of eligible items to the six budget categories follow. Each item or functional unit of equipment must have a minimum unit acquisition cost of $500 (list) and a life expectancy of more than two years. (The specifics of a functional unit are discussed in note (ii), immediately following the six budget categories.) Note that these guidelines and restrictions apply to equipment purchased with institutional matching funds as well as to that bought with NSF funds.

a. Scientific Equipment—to be used in any phase of undergraduate science, mathematics and/or engineering education.

b. Computing Equipment—digital, analog, analog-digital hybrid computers, mini- or micro-computers, or ancillary equipment that provides remote access to central digital computing systems. The equipment must be for use in specific curricular improvements; for example, interfacing with scientific instruments to assist student data acquisition and interpretation, or teaching computer science. Software essential to the scientific and educational objectives of the project is permitted. Each software package must be itemized, justified, and the cost indicated. Software ordered in conjunction with new computing equipment is regarded as part of a functional unit and, accordingly, need not cost $500 in order to be eligible.

c. Equipment Fabrication—including materials and labor. Sufficient justification must accompany requests for equipment construction funds, such as a detailed explanation of the advantages of the proposed units over commercially available items. Requests for equipment fabrication must be supported by drawings, diagrams, parts listed and estimates for labor charges, as appropriate. Any use of project funds (NSF or institutional matching monies) for the modification or construction of laboratories or other buildings, or for the installation of equipment, is specifically prohibited.

d. Safety Equipment—such as fire control devices, fume hoods, etc., may be purchased under this program where necessary for the safe utilization of the equipment requested in the above categories.

e. Maintenance Equipment—unique items specifically required for calibration, repair and maintenance of the scientific equipment itemized in the categories a., b., and c. above. If such items are part of a "package" offered by the vendor at a comprehensive price, they may be folded into the basic item of equipment.

f. Shipping Costs—reasonable estimates should be used, as opposed to a flat percentage.

Following the total amount of projects costs, list the actual dollar amount requested from NSF. The amount requested from the National Science Foundation may not exceed 50% of the total budget, or $100,000, and may not be less than $5,000.

Please note:

(i) It is important that reviewers be able to recognize the function of requested equipment. Therefore, the detailed budget should list all individual items by a descriptive name, and the probable brand, model, and price. (Such selections may be changed after an award.) Each category should be subdivided by function or by course so as to correspond as closely as possible to the narrative which is to follow. Each item should be lettered to be consistent with the categories above, and to facilitate reference to and from the justification presented in the narrative.

(ii) Budget items may be either single items meeting the minimum list cost requirement ($500), or part(s) of a functional unit where the sum of the components meets the minimum cost requirement. A functional unit is an assemblage of instruments, modules, and components which together perform a specific task and which, once assembled, ordinarily will be kept

together as a unit. Examples of functional units would be an oxcilloscope with appropriate probes, or a recording infrared spectrophotometer with a demountable cell assembly and appropriate windows, or a computer and its operating system (including software needed for it to achieve the curricular goals for which it is being purchased). A combination of independent instruments needed for some specific experiment or for a single laboratory station would not meet the definition of functional unit.

Each component of a functional unit must be itemized and the cost indicated; the subtotal for the entire unit should be entered as the unit cost (at least $500).

(iii) Many equipment manufacturers routinely offer educational or institutional discounts. In preparing the ILI budget, manufacturers or distributers should be contacted in order to obtain discounted prices. On the budget page, the list price should be shown, the standard educational discount noted and subtracted, and the discounted price used to compute the total cost of the project.

If the proposer is able to negotiate on an individual basis a special discount not routinely available to educational institutions, the usual discounted selling price should be listed in the project's budget. The amount by which the special discount exceeds the standard educational discount may be counted as matching funds.

4. Narrative. The narrative presents most of the information that determines whether or not a grant will be awarded. Proposals should be written to respond to criteria to be used by reviewers in judging the merit of the proposal. (See Proposal Evaluation, page 00.)

The narrative must focus on one coherent project which would improve undergraduate instruction in a definite way. The narrative must show how the requested equipment is necessary for the project, and how the various pieces of equipment will be used together to implement it. A proposal seeking support for several unrelated projects or for a list of equipment that is to be used in unrelated ways is not appropriate.

The narrative section must not exceed 12 double-spaced pages. Pages must be numbered. Reviewers wil not be responsible for studying additional narrative pages. Information applicable in more than one place may be referred to by page and paragraph. Appended information should be restricted to those appendices required in Section 5 below and to tabular presentations of items required to supplement the narrative. The use of tabular form for reporting details is encouraged. Such information should be cross-referenced to the appropriate portions of the narrative.

The narrative should conform to the following outline:

a. The Present Situation. This section should first present information about the institution and the department, and then should discuss the perceived deficiency that is to be addressed. It should open with a discussion of the institutional context: a brief description of the institution, the students it serves, the department, and the intended student clientele for the project being proposed. It also should discuss the curriculum of which the courses which will be served by the project are a part. (It cannot be assumed that the reviewers are acquainted with the institution and its sceince, mathematics or engineering programs.) Catalog descriptions of specific courses affected should be included in Appendix IV.

Second, this section should briefly describe the ongoing support from the institution to the department in order to answer the question: "Does the department have adequate resources and equipment to provide a sound program into which the present project will fit?" A list of major departmental equipment holdings should be included as Appendix IV (see section 5 on page xx).

Finally, this section should present the curricular deficiency which the project would remedy. It should answer the question: "What is currently missing from the curriculum or is not being done effectively?"

b. The Development Plan. This section should answer the question: "How is the course and/or curriculum to be improved by this project?" It should contain a detailed description of the specific developments intended. Specific experiments, student projects, or course work that would be conducted with the new equipment must be presented in terms of the scientific principles or phenomena to be taught, and in terms of the teaching methods to be employed. This portion of the narrative must enable a group of colleagues to judge the suitability of the planned change for the intended student audience, in the academic setting described. Both the scientific and pedagogical aspects of the proposed project will be weighed to assess the relative impact on science, mathematics or engineering education that would be realized through the funding of this project.

c. Equipment—(1) The Equipment Request. This section should answer the question: "Is each item of equipment requested actually needed to implement this development, is it the right piece of equipment for the job, and is the request appropriate for the department?" It should consist of some brief indication as to just how each major equipment item requested will be used to effect what instructional development. It should also include a discussion of why the particular equipment was chosen and what alternatives were considered and rejected, and why.

It is the purpose of this part of the proposal to establish the precise correlation between the subject-matter developments described in the previous sections and the items of equipment being requested. In the event of a grant, any items regarded as ineligible, not germane or inadequately justified will be deleted from the authorized list of purchases.

Logical groupings of items should be made to minimize repetition, with each entry cross-referenced to the item numbrs given in the budget (equipment list). Special arguments may be needed to explain requests for apparatus of a quality or cost not usually encountered in undergraduate instruction, equipment which is to be fabricated rather than purchased as a unit, or purchases which might appear to be at variance with the academic setting in which the project would operate. Such statements must be keyed to developments desired in undergraduate instruction. Therefore, proposers are cautioned against providing arguments based on enhancements of graduate-level courses, improvement of faculty research capabilities, or other activities outside the scope of ILI. (cf. Research in Undergraduate Institutions Program Announcement, NSF 85-59.)

(2) The Equipment on Hand for the Project. This section should answer the question: "Has there been a thorough survey of the current equipment inventory and does the proposal plan to make full use of it?" It should consist of a list indicating major equipment on hand that will be available for the project, but that is not included in this request.

(3) Equipment Maintenance. This section should answer the question: "Is a reasonable plan presented to ensure a maximum usable lifetime for the equipment?" Each proposal should briefly but clearly outline the institution's plan for extended care and maintenance of the equipment.

d. Faculty Expertise. This section should answer the question: "Does the department presently have personnel with the expertise needed to complete the project successfully, or is there a firm commitment to make an appropriate hire?" It should contain enough information about the present

faculty of the academic unit seeking support to convince reviewers that the technical expertise to carry out the proposed project will be present. Special attention should be given to the individual named to direct the project. Since the effective accomplishment of the project's goals depends in large measure on the principal investigator's knowledge of the discipline, the curriculum, and the equipment, this person must teach in the academic unit receiving support. A summary of experience must indicate that the principal investigator is an appropriate person to direct this particular project.

5. Appendices. Material that is supplementary to the text of the proposal should be included in the appendices, and may be single spaced. Each appendix should be printed on colored paper to make it easily distinguishable from the body of the proposal. The following seven appendices, if relevant to the project, are required. Their omission can delay processing or impede evaluation.

I. Curriculum vitae of the principal investigator (include a list of significant publications), plus a one-page resume' for each faculty associate who will participate in the project.

II. Statement of current and pending support. All current and pending externally-funded support to the principal investigator and co-principal investigator (if any), including this proposed project, must be listed on the form found on page 00. This information is needed to assure that the project leaders will have time to carry out the project and that there is no duplication of support.

III. Statement of results of prior support. If either the prospective principal investigator or the co-principal investigator received support from NSF's College Science Instrumentation Program in either 1985 or 1986, the proposal must include an Appendix III entitled "Results from Prior NSF Support". This appendix must describe the earlier CSIP project and its outcomes in sufficient detail to permit a reviewer to reach an informed conclusion regarding the value of the results achieved. The following information must be included in this summary statement:

- The NSF award number, amount, and period of support;
- Title of the project;
- A summary of the results of the completed work. (To facilitate review, this summary should not exceed—for ILI—three double-spaced pages); and
- A list of publications and/or formal presentations acknowledging the NSF award (copies of such papers are not to be submitted with the proposal).

Appendices IV through VII need provide no more information than should be readily available to a department. Please limit each to a maximum of two pages.

IV. A list of all major equipment held by the department, whether relevant to the proposed project or not, including model, date of purchase, and approximate cost. Where this equipment list is too extensive to include in two pages, list only the most expensive and most relevant items. Minor items of equipment may be listed, if so desired, by categories (e.g., "12 pH meters of various models").

V. A catalog description of each course directly affected by this project, the frequency of offering, approximate enrollment, and whether or not required of majors.

VI. (Only for projects which are intended for majors.) Summarize the number of majors graduated each year for the past five years. Provide an estimate of the number of graduates who went on to graduate or professional schools, and the number who went directly into the workforce. Where the information is available, list graduate schools attended and organizations which hired substantial numbers of graduates.

VII. (Only for projects which include a student research component.) A list of recent talks and papers involving undergraduate students in the department. Identify student authors with an asterisk.

Other appropriate appendices might include schematic diagrams of equipment, detailed description of specialized equipment, examples of experiments, etc. It is important that appendices be brief and easy to read. Voluminous appendices cannot be read by reviewers in the time available for proposal evaluation. It is inappropriate to include institutional catalogues, departmental curricula, whole laboratory manuals, or other general material.

D. Proposal Submission

Proposals must be received in the Foundation by 5:00 p.m. on November 20, 1987 to insure inclusion in the competitive review process established for this Program.

Materials required:

Fifteen legible copies of the complete proposal;
One copy of the NSF form, 1225 attached to the signature copy of the proposal only;
Three sets of extra forms, each stapled into a unit and containing
One copy of the Cover Sheet,
One copy of the Budget (Equipment List), and
One copy of the Project Summary Form.

These materials should be submitted to: Proposal Processing Unit for Instrumentation and Laboratory Improvement Program, Room 223, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

The following requirements also must be met:

- All materials submitted to the Foundation must be contained in a single package. Secure packaging is mandatory. The Foundation cannot be responsible for the processing of proposals damaged in transit;
- Each copy of the proposal should be on standard size duplicating or mimeograph paper of regular weight. It should be stapled only in the upper left corner. All pages must be numbered. The duplicating process should ensure legibility for at least 5 years. Typing of the narrative must be double-spaced; and
- One copy must be signed both by the principal investigator and by an administrative official who has been designated as an Authorized Institutional Representative.

Do Not:

- Staple the sets of extra cover sheets, project summary forms, and equipment budgets to a proposal;
- Put covers on the proposals; or
- Send separate "information" copies or several packages containing parts of a single proposal.

A checklist of items to remember in preparing and submitting a proposal is located on page 00.

III. Proposal Evaluation and Award Selection

NSF evaluates proposals on the basis of four general criteria:

1. *Performance competence*—This criterion relates to the capability of the investigator(s), the technical soundness of the proposed approach, the adequacy of the institutional resources available, and the proposer's recent research/science, mathematics or engineering education performance.

2. *Intrinsic merit*—This criterion is used to assess the quality, currency, and significance of the scientific/technical content and related instructional activity of the project within the context of undergraduate science, mathematics, and engineering education.

3. *Utility or relevance of the project*—This criterion is used to assess the

impact the project will have at the proposing institution, and the appropriateness of the project in the local context.

4. *Effect on the infrastructure of science, mathematics and/or engineering*—This criterion relates to the potential of the proposed project to contribute to better understanding or to improvement of the quality, distribution, or effectiveness of the Nation's scientific/mathematics/engineering research, education, and human resources base.

See page 9 of GRESE for an additional discussion of these criteria.

ILI grants are awarded on a competitive basis. In selecting proposals to be supported, the Foundation is assisted by merit reviewers who are mathematicians, scientists or engineers, drawn primarily from the academic community, and also from research organizations and professional associations.

IV. Announcement and Administration of Awards

• The evaluation and processing of proposals will require approximately 6 months. Decisions will be announced individually through written notices to the institution and to the principal investigator. The last award and declination notices are expected to be mailed in late May, 1988. Before such notice is dispatched, the Foundation can give no information concerning the probability that any particular proposal will be supported or declined. Proposals are urged to refrain from making premature inquiries.

• Grants are administered in accordance with the terms and conditions described in this announcement, the GRESE, and NSF F.L. 200, Grant General Conditions, copies of which may be requested from the NSF Forms and Publications Unit. More comprehensive information is contained in the NSF Grant Policy Manual (Revised) available through the Superintendent of Documents, Government Printing Office, Washington, DC 20402.

The Foundation strongly encourages publication of research results and instructional experiments developed. The awardee, however, is wholly responsible for the conduct of the project and for preparation of the results for publication. The Foundation does not assume responsibility for project results or their interpretation.

Within 90 days after the expiration of a grant, the principal investigator is required to submit a Final Project Report (NSF Form 98A). Final expenditure information is supplied by the grantees through the Federal Cash Transactions Report (SF 272), normally submitted by the grantee's financial officer. Annual reports of progress are not required of ILI grantees.

V. Check List

The following checklist of steps in completing a ILI proposal is provided for the convenience of the proposal writer.

A. Eligibility

Determined for
- Department
- Field and/or Project
- Equipment

B. Forms Completed

- Cover Sheet
- Project Director's signature on one copy Authorized Organizational Representative's signature on same copy
- Form 1225 (Information about Principal [and Co-Principal] Investigators), submit only one copy, attached to signature copy.
- Submission of the *form* is required.
- Project Summary Form (Project Summary single-spaced)
- Budget (Equipment List) completed, using the required format.

  Must contain no item with a unit list cost of under $500 (unless it is part of a functional unit)

  Equipment items numbered and categorized
  Subtotals for categories indicated
  Total cost for project indicated
  Arithmetic checked for accuracy
  NSF request indicated (it may not exceed 50% of total project cost, nor be more than $100,000, nor be less than $5,000)

The Principal Investigator must have submitted NSF form 98A for all completed NSF-funded projects.

C. Narrative Completed

- All points covered
  (a) Present situation
  (b) Development plan
  (c) Equipment
  (d) Personnel
- Does not exceed 12 double-spaced, numbered pages

D. Appendices

I. Curriculum vitae
II. Statement of current and pending support
III. Statement of prior support results
IV. List of departmental equipment
V. Catalog description of courses affected
VI. Information on past graduates (needed if majors are to be affected)
VII. Student research papers and talks (needed if the project features a student research component)
VIII. Other necessary information, if any

E. Format Checked

- Sections in proper order
- Correct number of copies of proposal and forms included

F. Submission

- All materials forwarded in a single package
- Materials submitted in time to reach NSF on or before November 20, 1987

VI. Other Programs

NSF Guide to Programs (NSF 86-40) briefly describes all Foundation programs, most of which are open to all institutions. It is available at most institutions or may be obtained at no cost by contacting the Forms and Publications Unit, Room 232, NSF, Washington, DC 20550 (202/357-7861). Some programs of special interest to undergraduate faculty are described below.

• The NSF has several programs directed toward improving precollege science, mathematics and technology education. In most cases, college and university faculty write proposals and direct the projects supported by these programs. For information on Applications of Advanced Technologies, Informal Science Education, Instructional Materials Development, or Research in Teaching and Learning, contact the Division of Materials Development, Research and Informal Science Education, Room 635, NSF, Washington, DC 20550 (202/357-7452). For information on Science and Mathematics Education Networks, Teacher Preparation, Teacher Enhancement, or Presidential Awards for Excellence in Science and Mathematics Teaching, contact the Division of Teacher Preparation and Enhancement, Room 635, NSF, Washington, DC 20550 (202/357-7083).

• Information on Graduate Research Fellowships and Minority Graduate Research Fellowships may be obtained by containing the National Research Council, 2101 Constitution Avenue, Washington, DC 20418.

• Research Experiences for Undergraduates (REU) provides an opportunity for college students to gain hands-on experience in science, mathematics or engineering research programs or equivalent projects conducted with the needs of undergraduates in mind. REU provides funds to operate REU Research Participation Sites. Each such site

usually will involve several college students. REU also will supplement ongoing NSF research awards to enable them to provide research training experience for one or two undergraduates. More information is available through the REU Brochure, NSF 87-63 (copies of which may be obtained from the Forms and Publications Unit, NSF, Washington, DC 20550), or from the Divisional REU Coordinator, (Name of Discipline), NSF, Washington, DC 20550. Names and telephone numbers of the REU Coordinators for the various disciplines are listed in the REU brochure.

• The Undergraduate Faculty Enhancement Program (UFE) offers Grants for Undergraduate Faculty Seminars and Conferences to provide opportunities for groups of faculty to learn about new techniques and new developments in their fields. Awards are made to conduct seminars, short courses, workshops or similar activities for groups of faculty members from outside the grantee institution. For further information about the Undergraduate Faculty Enhancement Program, contact the Office of Undergraduate Science, Engineering, and Mathematics Education, Room 639, NSF, Washington, D.C. 20550 (202/357-7051).

• Through Research Opportunity Awards (ROA), faculty members at institutions with limited research opportunities may work with investigators who already hold or are applying for an NSF research grant. The experience gained under ROA may help the faculty member from the participating institution to become more competitive in submitting an independent research proposal, and may provide experience that will be reflected in improved teaching at the home institution. Full-time faculty members interested in ROA collaborations must make their own arrangements with a host investigator and institution. Formal application to NSF is made by the host institution as part of an initial proposal to NSF or, if an award already is in progress, as a supplement to that award. For further information about Research Opportunity Awards, contact the Research Opportunities Award Program, Room 1225, NSF, Washington, DC 20550 (202/357-7456).

• The Research in Undergraduate Institutions (RUI) activity is part of the Foundation's effort to broaden the base for science and engineering research and to enhance the scientific and technical training of students. The objectives of the RUI activity are to strengthen the research environments in academic departments that are oriented primarily to undergraduate education in science and engineering, and to promote the coupling of research and education at predominantly undergraduate institutions. RUI provides support for research and research equipment for investigators in non-doctoral departments in predominantly undergraduate institutions. RUI proposals are evaluated and funded on a competitive basis by NSF's research programs. For further information contact the Division of Research Initiation and Improvement, Room 1225, NSF, Washington, DC 20550 (202/357-7456).

• NSF's Facilitation Awards for Handicapped Scientists and Engineers (FAH) activity enhances opportunities for disabled individuals to participate in research. Funds are provided to purchase special equipment, modify equipment, or provide other services required specifically for the work undertaken on an NSF-supported project (see NSF 84-62, Rev 5-87). Funds from regular program budgets are provided for handicapped senior personnel, other professionals, and students, as a supplement to an existing award or as part of a new award. General inquiries may be made to the Coordinator, Facilitation Awards for Handicapped Scientists and Engineers, Room 1225, NSF, Washington, DC 20550 (202/357-7456).

• The Minority Research Initiation Program (MRI) supports research by minority scientists and engineers who hold full-time faculty or research-related positions, who (1) are members of ethnic minority groups that are significantly underrepresented in the science and engineering career pool; (2) have not previously received Federal research support as faculty members; and (3) wish to initiate research efforts on their campuses, thereby increasing their ability to compete successfully for other research support. Information about programs for minority scientists and engineers may be obtained from the MRI Program Director, Room 1225, NSF, Washington, DC 20550 (202/357-7350).

• The Visiting Professorships for Women Program (VPW) enables experienced women scientists and engineers to undertake advanced research at a host institution—a university or 4-year college which has the necessary facilities. In addition to her research responsibilities, the visiting professor undertakes lecturing, counseling and other activities to increase the visibility of women scientists in the academic environment of the host institution, and to provide encouragement for other women to pursue science, mathematics or engineering careers. Additional information may be obtained by contacting the VPW Program Director, Room 1225, NSF, Washington, DC 20550 (202/357-7734).

• The Research Opportunities for Women Scientists and Engineers Program (ROW) is designed to provide opportunities for independent research for women who previously have not been principal investigators, or who are reentering the research community. Additional information may be obtained by contacting the ROW Coordinator, NSF, Washington, DC 20550 (202/357-7734).

• The Undergraduate Curriculum Development Program includes two components: Engineering Curriculum Development and Calculus Curriculum Development.

—The Undergraduate Engineering Curriculum Development Program is designed to revise and improve undergraduate engineering education. There is a pressing need to revise the curricula of undergraduate engineering education with a view toward more emphasis on the laboratory experience and on technology-driven fields such as design, manufacturing, and computer-integrated engineering. There is also a need to explore the use of new technologies to improve the quality and productivity of the undergraduate engineering education system. Additional information about this program may be obtained from the Undergraduate Engineering Curriculum Development Program, Room 1238, NSF, Washington, DC 20550 (202/357-5102).

—The Division for Mathematical Sciences Undergraduate Curriculum Program supports proposals that will have significant impact on the nature of calculus instruction in this Nation through the development of model curricula and prototypical instructional materials. For additional information contact the Division of Mathematical Sciences, Room 339, NSF, Washington, DC 20550 (202/357-9669).

• MOSIS is a joint NSF/DARPA Program that allows qualifying universities to use the DARPA fast turnaround VLSI implementation facility as part of university based research and educational programs. Students taking undergraduate VLSI design courses can now have digital systems that they design, fabricated and packaged and returned to them for testing and experimentation. For more inforamtion, contact the Division of Microelectronic Information Processing Systems, Room

504, NSF, Washington, DC 20550 (202/357-7853).

• The Career Access Opportunities in Science and Technology for Women, Minorities and the Disabled is an undergraduate program that supplements efforts at the pre-college level to address the underrepresentation of women, minorities and the disabled in the Nation's ranks of science and engineering professionals. There are two activities:

—Comprehensive Projects for Minorities supports the establishment of regional centers designed to increase the minority presence in science and engineering and to strengthen such efforts in institutions with significant minority enrollments, and

—Prototype and Model Projects for Women, Minorities and the Disabled encourages institutions to create special outreach programs for these target audiences.

For more information, contact the Office of Undergraduate Science, Engineering, and Mathematics Education, Room 639, NSF, Washington, DC 20550 (202/357-7051).

Animal Welfare

If any of the equipment listed in a ILI proposal is likely to be employed in conducting experiments using non-human vertebrate animals or in maintaining such animals in captivity, the "Animal Welfare" block on the cover sheet must be checked. In such proposals, the narrative must contain an assurance that the proposing institution complies with the relevant guidelines issued by the National Institutes of Health in the *Guide for the Care and Use of Laboratory Animals* (NIH Publication 85-23, Revised 1985). The particular attention of proposers is directed to "U.S. Government Principles for the Utilization and Care of Vertebrate Animals Used in Testing, Research and Training," to be found in the Appendix of that Guide. Individuals desiring a copy of these Guidelines can obtain one from the Division of Research Services, Building 31, Room 4B59, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892. (NSF does not maintain a supply of this document.)

Robert F. Watson,

Acting Head, Office of Undergraduate Science, Engineering and Mathematics Education.

September 16, 1987.

[FR Doc. 87-21730 Filed 9-18-87; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published August 17, 1987 (52 FR 30749). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings will be discussed during full Committee meetings and when Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the October 1987 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone: 202/634-3265, ATTN: Barbara Jo White) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

Extreme External Phenomena, September 29, 1987, Washington, DC. The Subcommittee will discuss the NRC Staff's Seismic Design Margins Program and the application of the methodology to Maine Yankee.

Generic Items, September 30, 1987, Washington, DC. The Subcommittee will continue the discussion on the effectiveness of the programs that address generic issues and USIs. Also, it will discuss with selected licensees the contribution to plant safety resulting from the implementation of the resolved generic issues and USIs.

Auxiliary Systems, October 1, 1987, Washington, DC. The Subcommittee will discuss the following: (1) Heating, ventilating, and air conditioning (HVAC) system malfunctions and their impact on safety systems, and (2) problems associated with instrument air systems, AEOD findings on instrument air system malfunctions and its recommendations to alleviate this problem.

TVA Organizational Issues, October 2, 1987, Washington, DC has been deferred.

Standardization of Nuclear Facilities, October 6, 1987, Washington, DC. The Subcommittee will review the Staff SER and Chapter I of the EPRI Requirements Document.

Safety Philosophy, Technology, and Criteria, October 7, 1987, Washington, DC. The Subcommittee will meet with the NRC Staff and discuss their plans for incorporating the ACRS recommendations on Safety Goal Policy implementation into the Policy implementation plan.

Instrumentation and Control Systems, October 14, 1987, Washington, DC. The Subcommittee will discuss the NRC's proposed final resolution of USI A-47, "Safety Implications of Control Systems." In addition, the Subcommittee will discuss and consider the comments by Mr. Basdekas regarding the resolution of this USI.

Waste Management, October 15 and 16, 1987, Washington, DC. The Subcommittee will review pertinent HLW, LLW, and associated research topics to be determined at an agenda planning session with NMSS and RES staffs on September 23, 1987.

Joint Scram Systems Reliability and Core Performance, October 28, 1987, Washington, DC. The Subcommittees will review the current status of PWR plant operations (core reload designs, etc.) as they impact on core moderator temperature coefficients in general, and ATWS analyses in particular.

Systematic Assessment of Operating Experience, November 3, 1987, Washington, DC. The Subcommittee will discuss AEOD's role in helping the NRC learn from operating experience.

Maintenance Practices and Procedures, November 12, 1987, Washington, DC. The Subcommittee will be briefed and will discuss the proposed Policy Statement on Maintenance of Nuclear Power Plants.

Quality and Quality Assurance in Design and Construction, November 23 or 24, 1987, Washington, DC. The Subcommittee will review QA Experience in Readiness Reviews as applied to nuclear power plants, with a view toward possible application to HLW geologic repositories and monitored retrievable storage (MRS) facilities.

Thermal Hydraulic Phenomena, Date to be determined (September/October), Washington, DC. The Subcommittee will

review: (1) the final version of the revised ECCS Rule, (2) the status of the NRC–RES thermal hydraulic research program.

Severe Accidents, Date to be determined (October) (tentative), Washington, DC. The Subcommittee will review the final version of the NRC Staff's proposed generic letter on Individual Plant Examinations (IPEs).

Decay Heat Removal Systems, Date to be determined (October), Washington, DC. The Subcommittee will continue its review of the NRR Resolution Position for USI A–45.

TVA Organizational Issues, Date to be determined (October/November), Washington, DC. The Subcommittee will review the safety issues associated with TVA management reorganization and the Sequoyah restart.

Containment Requirements, Date to be determined (October/November), Washington, DC. The Subcommittee will review the hydrogen control measures for BWRs and Ice Condenser PWRs (USI A–48). May also involve EPGs for BWRs.

Metal Components, Date to be determined (October/November), Charlotte, NC. The Subcommittee will review the status of the NDE of cast stainless steel piping.

Advanced Reactor Designs, Date to be determined (November), Washington, DC. The Subcommittee will review and comment on the draft Commission paper that will be prepared by the NRC Staff regarding the severe accidents and containment issues for the DOE-sponsored advanced reactor designs.

Containment Requirements, Date to be determined (November/December), Washington, DC. The Subcommittee will review the proposed Containment Performance/Improvement Program Plan. The Plan is in three parts: (1) Improved plant operations including EOPs, (2) severe accident vulnerabilities via IPEs, and (3) containment performance in the event of a severe accident.

Diablo Canyon, Date to be determined (late November/early December), Location to be determined. The Subcommittee will review the status of the Diablo Canyon Long-Term Seismic Program.

Combustion Engineering Reactor Plants, Date to be determined (November/December), Washington, DC. The Subcommittee will initiate its review of CESSAR–Plus (CE's Advanced LWR for the 1990's).

Babcock & Wilcox Reactor Plants, Date to be determined (November/December), Washington, DC. The Subcommittee will continue its review of the long-term safety review of B&W reactors. This effort was begun during the summer of 1986; initial Committee comments offered on July 16, 1986 in a letter to V. Stello, EDO.

Westinghouse Reactor Plants, Date to be determined (December/January 1988), Washington, DC. The Subcommittee will discuss and hear presentations from Westinghouse representatives regarding the important design features and objectives of WAPWR (RESAR SP/90) and the AP 600 designs.

Structual Engineering, Date to be determined (January 1988), Albuquerque, NM. The Subcommittee will review the results of the model concrete containment test.

Auxiliary System, Date to be determined (January 1988) (tentative), Washington, DC. The Subcommittee will discuss: (1) Criteria being used by utilities to design Chilled Water Systems, (2) regulatory requirements for Chilled Water System design, and (3) criteria being used by the NRC Staff to review the Chilled Water System design. To facilitate this discussion, some members of the Subcommittee will tour the Shearon Harris plant to look at the Chilled Water System design at that plant.

Containment Requirements, Date to be determined (April 1988), Washington, DC. The Subcommittee will review the NRC Staff's document on containment performance and improvements (all containment types.).

ACRS Full Committee Meeting

October 8–10, 1987: Items are *tentatively* scheduled.

*A. *Station Blackout, USI A–44 (Open)*—Discuss proposed NRC Staff resolution of ACRS comments in its report of June 9, 1987, Subject: ACRS Comments on the NRC Staff Proposal for the Resolution of USI A–44 "Station Blackout," and related activities of NUMARC regarding this subject.

*B. *Integrated Safety Assessment Program (Open)*—Discuss proposed NRC Staff's plan for implementation of ISAP taking into account ACRS's comments in its report of July 15, 1987.

*C. *Seismic Qualification of Nuclear Power Plant Equipment and Systems (Open)*—Report and discussion regarding results of seismic walk-through of the Zion Nuclear Station. Representatives of the NRC Staff and the nuclear industry Seisimic Qualification Utility Group.

*D. *Zion Nuclear Plant Full Field Exercise (Open)*—Briefing by and discussion with representatives of the NRC Staff regarding the results of the exercise which simulated a fuel failure in this plant.

*E. *Implication of Chernobyl Accident (Open)*—Discuss proposed NRC Staff implementation of ACRS recommendations in its report of January 15, 1987.

F. *Appointment of New ACRS Members (Closed)*—Discuss qualifications of candidates proposed as nominees for appointment to the Committee.

*G. *Future ACRS Activities (Open)*—Discuss anticipated ACRS subcommittee activity and items proposed for consideration by the full Committee.

*H. *TVA Management and Nuclear Power Plant Operations (Open)*—Consider proposed TVA Nuclear Management reorganization plan and proposed restart of the TVA Sequoyah Nuclear Plant.

*I. *Operating Events and Incidents (Open)*—Hear and discuss reports regarding recent nuclear power plant operating events and incidents.

*J. *Probabilistic Risk Assessment (Open)*—Discuss proposed NRC staff response to ACRS recommendations in its report of July 15, 1987, Subject: ACRS Comments on Draft NUREG–1150, "Reactor Risk Reference Document."

*K. *Advanced LWR Design (Open)*—Consider proposed EPRI Advanced LWR Requirements. Representatives of the NRC Staff and the nuclear industry (EPRI) will participate as appropriate.

L. *Management Meeting with NRC Commissioners (Closed)*—Preparation for and discussion with NRC Commissioners regarding ACRS conclusions/recommendations regarding internal allocation of resources to provide outside technical advice regarding nuclear waste management and disposal.

*M. *Reorganization of Nuclear Industry Activities (Open)*—Briefing by representatives of the nuclear industry regarding reorganization and realignment of responsiblities among industry groups to achieve operational excellence, improve the interface with NRC, and effectively address the full spectrum of unresolved generic safety issues.

*N. *ACRS Subcommittee Activities (Open)*—Hear reports and discuss the status of designated subcommittee activities regarding safety related and regulatory matters including PWR seismic design margins, thermalhydraulic phenomena, systematic evaluation of nuclear power plant operating experience, auxiliary nuclear power plant systems, and reactor coolant pump seal failure (GI A–23).

November 5–7, 1987—Agenda to be announced.

December 3–5, 1987—Agenda to be announced.

Date: September 16, 1987.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 87–21714 Filed 9–18–87; 8:45 am]

BILLING CODE 7590–01–M

Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations; Correction to Bi-Weekly Notice

On September 9, 1987, the **Federal Register** published the Bi-Weekly Notice of Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations. On page 34027, for the Browns Ferry Nuclear Plant, Units 1, 2 and 3 (application dated February 6, 1987 (TS 225)), the Amendment Nos. read, "134, 131, 106." The correct Amendment Nos. should have been "135, 131, 106."

Dated at Bethesda, Maryland this 16th day of September 1987.

For The Nuclear Regulatory Commission.

John A. Zwolinski,

Assistant Director for Projects, TVA Projects Division, Office of Special Projects.

[FR Doc. 87–21715 Filed 9–18–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–440, 50–441]

Final Director's Decision on Petition; Cleveland Electric Illuminating Co. et al., Perry Nuclear Power Plant, Units 1 & 2

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a Director's Decision concerning a Petition dated November 7, 1986, filed by Terry J. Lodge on behalf of the Sunflower Alliance, Inc. (Petitioner). The Petitioner requested that the Nuclear Regulatory Commission (NRC) issue an order to show cause why the operating license for the Perry Nuclear Power Plant, Unit 1, should not be modified or revoked on the basis of alleged emergency planning deficiencies. The operating license for Unit 1 of the Perry facility was issued on November 13, 1986 to the Cleveland Electric Illuminating Company, et al. On February 25, 1987, the NRC notified the Petitioner that this matter would be considered pursuant to 10 CFR 2.206.

The Petitioner raised a number of offsite emergency planning issues, including the adequacy of (1) Geauga County reception/congregate care centers, (2) emergency planning commitments of local area school districts, (3) bus driver response, and (4) Ashtabula County Medical Center. The Director has now determined that the Petitioner's request should be denied for the reasons explained in the "Director's Decision Pursuant to 10 CFR 2.206" (DD–87–15), which is available for inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555 and at the local Public Document Room for the Perry Nuclear Power Plant at the Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

A copy of the decision will be filed with the Secretary for Commission review in accordance with 10 CFR 2.206(c). As provided in 10 CFR 2.206(c), the decision will become the final action of the Commission twenty-five (25) days after issuance, unless the Commission on its own motion institutes review of the decision within that time.

Dated at Bethesda, Maryland, this 14th day of September 1987.

For The Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 87–21716 Filed 9–18–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–327, 50–328]

Denial of Amendments to Facility Operating Licenses and Opportunity For Hearing; Tennessee Valley Authority

The U.S. Nuclear Regulatory Commission (the Commission) has denied a portion of requests by the Tennessee Valley Authority (TVA) for amendents to Facility Operating License Nos. DRP–77 and DPR–79, issued to TVA for operation of the Sequoyah Nuclear Plant, Units 1 and 2, respectively, located in Hamilton County, Tennessee.

The amendments, as proposed by TVA, would change section 6—Administrative Control—to reflect the new plant organization, a restructuring of the Independent Safety Engineering Group, and changes to the Plant Organization Review Committee responsibilities. The licensee's application for the amendments was dated May 18, 1987, as supplemented June 4, 1987. Notice of Consideration of Issuance of these amendments was published in the **Federal Register** on July 1, 1987 (52 FR 24561). All of the requested changes were granted except for the changes to sections 6.8.3, 6.8.3.a, and 6.8.3.b to delete the requirement for Plant Operating Review Committee (PORC) review of temporary procedure "intent" changes. Notice of the issuance of Amendment Nos. 58 and 50 will be published in the Commission's biweekly **Federal Register** notice.

The proposed changes to delete the requirement for PORC review of temporary procedure "intent" changes were denied. All procedures where the original intent of the procedure is changed must receive a full and complete review. It is not acceptable to the staff that quick changes be made to the intent of procedures.

The licensee was notified of the Commission's denial of the proposed Technical Specification changes by letter dated September 10, 1987.

By October 21, 1987, the licensee may demand a hearing with respect to the denial described above and any person whose intent may be affected by this proceeding may file a written petition for leave to intervene.

A request for a hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW, Washington, DC, by the above date.

A copy of any petitAlaskaions should also be sent to the Office of the General Counsel—Bethesda, U.S. Nuclear Regulatory Commission, Washington DC 20555, and to the General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902, attorney for the licensee.

For further details with respect to this action, see (1) the applications for amendments dated May 18, 1987, as supplemented June 4, 1987, and (2) the Commission's letter and enclosed Safety Evaluation to TVA dated August 1987, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC, and at the Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402. A copy of item (2) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, TVA Projects Division.

Dated at Bethesda, Maryland, this 10th day of September 1987.

For The Nuclear Regulatory Commission.

John A. Zwolinksi,

Assistant Director for Projects, TVA Projects Division, Office of Special Projects.

[FR Doc. 87–21717 Filed 9–18–87; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-24916; File No. SR-CBOE-87-35]

Self-Regulatory Organizations; Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Retail Automatic Execution System ("RAES") in Equity Options

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 27, 1987, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

Since September 1986, the Exchange has conducted a pilot program of its retail automatic-execution system ("RAES") in six classes of options on individual equity securities ("equity options"). By this proposed rule change, the Exchange describes the making of RAES permanent in such classes of equity options as designed by the Exchange.

Firms currently on the Exchange's Order Routing System ("ORS") will automatically be on RAES for purposes of routing small public customer market orders into the RAES system. Firms on ORS have the ability to go on and off ORS at will. Firms not on ORS that wish to participate will be given access to RAES from terminals at their boths on the floor.

When RAES receives an order, the system automatically will attach to the order its execution price, determined by the prevailing market quote at the time of the order's entry to the system. A buy order will pay the offer; a sell order will sell the bid. A participating market-marker will be designated as contra-broker on the trade.

It is possible that the prevailing market bid or offer may be equal to the best bid or offer on the Exchange's book. In no case can a RAES order be executed at a price better than the best bid or offer on the book because the prevailing market may be no better than the best bid or offer on the book. A RAES sell order cannot be filled at a price lower than the best book bid, nor can a RAES buy order be filled at a price higher than the best book offer. However, in the case of options on IMB, and in the case of unusual market conditions for other option classes, a transaction can take place at the price of a booked order.

Under ordinary circumstances, in options classes other than IBM, if a RAES order would be executed at the price of one or more booked orders, the order will be rerouted on ORS under the existing ORS parameters. Currently, such an order would be routed to a Floor Broker in the crowd via a printer. In the event that the firm routing the order is not routing orders to the printer in that crowd, the order would print at the firm's booth. The representation, execution and reporting of such an order would occur as it does for all orders so routed.

The Exchange may suspend book participation in RAES for an options class upon a declaration of unusual market conditions. Such a declaration may be made in an options class whenever the Exchange's Vice Chairman and President (or their respective nominees) concur in determining that conditions in that options class are such that it is no longer possible for Exchange operations personnel to conduct normal trading operations and to handle the manual integration of booked and RAES orders. Such concurrence is also required to restore book participation in RAES.

Participating market-makers will be assigned by RAES on a rotating basis, with the first market-maker selected at random from the list of signed-on market-makers, subject to book interaction as described above. Participating market-makers are obligated to trade at the displayed market quote at the time an order enters the system. Exchange rules shall not apply to the extent that they are inconsistent with the terms including but no tlimited to Rule 6.45. (Priority of Bids and Offers), Rule 6.43 (Manner of Bidding and Offering), and Rule 8.1 (Market-Maker Defined). Position and exercise limits will remain in effect for RAES transactions. Transactions executed through RAES orders will count towards fulfillment of the in-person requirement of Rule 8.7.

All participants will be informed of trades immediately upon execution. A fill report will be generated to the firm at the firm's point of entry into the system (i.e., either its branch office or floor booth). A trade acknowledgement ticket ("TAT") will be printed at locations in trading posts where selected options classes are located, for delivery to market-makers. TAT's for market-makers not present at the trading post will be set aside for pickup. The Exchange may make available an electronically transmitted TAT in lieu of a printed TAT. A log for all transactions will be available throughout the day for review by participants. Audit reports will be sent to the Exchange's Regulatory Services Division. The Exchange may provide electronic reporting of trades to participating market-markers in lieu of hard copy TAT's.

Eligible orders must be market or marketable limit orders for ten or fewer contracts on series placed on the system. The Exchange, in its discretion, may determine to restrict eligible orders, including but not limited to, limiting orders to market orders and to lowering contract limits. The Exchange will have discretion to place on the system such series in the eligible classes of options as it determines are appropriate. Announcements concerning eligible series will be made daily by the Exchange in the same way new strike prices are currently anounced, that is, by memoranda and taped telephone messages.

Each day the system is available, a post director or his representative will start the system, after quotes in the eligible series have been updated following opening rotation. If no market-makers sign on, the system will not be started. If the system is or becomes unavailable, for any reason, eligible orders will be handled as they are handled currently in other equity option classes.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to enable the Exchange to extend its RAES pilot in six classes of options of individual stocks ("RAES in equity options") to additional equity options, and to make the pilot permanent. By the pilot, the Exchange has been able to assess better the system's effects and capabilities. RAES in equity options has generally proven to benefit public customers, market-

makers, floor brokers and member firms. It has reduced the amount of paper entering trading crowds, has improved fill-reporting turnaround time, and has offered a guaranteed price at the displayed market. RAES has also aided in timeliness of price reports, and accuracy of the trade-match data and last-sale audit trail. It is hoped that these same benefits will accrue as the program is expanded.

In light of the foregoing, the Exchange believes that the use of RAES in equity options is consistent with the provisions of the Securities Exchange Act of 1934, and in particular, section 6(b)(5), in that it will protect the public interest and enhance market efficiency.

RAES in equity options generally will preserve limit order book priority in all options except IBM. At present, this will be accomplished by rerouting on ORS orders which would be executed at the price of an order on the book. The order rerouting will be consistent with existing ORS parameters. Currently, such orders would be routed to a printer in the trading crowd, for Floor Broker representation. If the firm is not routing orders to that printer, the order would be rerouted to the firm's booth. Once rerouted, such orders would be handled as are all orders similarly routed.

Options on IBM are the most active of any equity option. Average daily volume in April and May 1987, for example, was in excess of 50,000 contracts, which meets or exceeds the aggregate options contract volume of several options exchanges. Operationally, given the manual handling of booked orders, and the various steps necessary to integrate the book with RAES, there is an activity level at which RAES would materially interfere with normal book operations. Activity in IBM clearly exceeds that level.

The proposed rule change also provides for the Exchange to suspend book priority in other pilot options classes in unusual market conditions. Although not expected to be used, such a suspension would be called for if the activity level in an option class materially interfered with the ability of Exchange personnel to handle the manual tasks necessary to integrate the book with RAES, such as assigning trades and book bids and offers with RAES trade prices. The concurrence of the Exchange president and vice-chairman, or their respective designees, is required to suspend or reinstate book interaction with RAES.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

In a vote concluded July 23, 1987, the membership voted 705.2 to 226.1 to endorse this proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within any longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to the file number in the caption above and should be submitted by [October 13, 1987].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

September 11, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-21697 Filed 9-18-87; 8:45 am]

BILLING CODE 8010-01-M

[File No. 7-048]

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

September 15, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following security:

Battle Mountain Gold Co.
Common Stock, $0.10 Par Value (File No. 7-048)

This security is listed and registered on one or more other national securities exchanges and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 6, 1987, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-21698 Filed 9-18-87; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

September 15, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission

pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following security:

Diamond Shamrock R & M, Inc.
Common Stock, $0.01 Par Value (File No. 7-0486)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 6, 1987, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based on all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-21699 Filed 9-18-87; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2288; Amdt. No. 1]

Declaration of Disaster Loan Area; Illinois

The above-numbered Declaration (52 FR 3298, September 1, 1987) is hereby amended in accordance with the Notice of Amendment to the President's declaration, dated August 27, 1987, to include the following areas in the State of Illinois because of damage from severe storms and flooding beginning on August 13, 1987:

Barrington, Berwyn, Cicero, Evanston, Jefferson, Lake View, New Trier, Niles, Northfield, Oak Park, and Rogers Park Townships, and that portion of the City of Chicago north of Roosevelt Road, in Cook County; and all areas of DuPage County.

All other information remains the same; i.e., the termination date for filing applications for physical damage is the close of business on October 22, 1987, and for economic injury until the close of business on May 23, 1988.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Date: August 28, 1987.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 87-21672 Filed 9-18-87; 8:45 am]

BILLING CODE 8025-01-M

Notice of Action Subject to Intergovernmental Review; Refunds, SBDC's; Arkansas, et al.

AGENCY: Small Business Administration.

ACTION: Notice of action subject to intergovernmental review under Executive Order 12372.

SUMMARY: This notice provides for public awareness of SBA's intention to refund twenty-five presently existent Small Business Development Centers (SBDCs) on January 1, 1988. Currently, there are 49 SBDCs operating in the SBDC program. The following SBDCs are intended to be refunded, subject to the availability of funds: Arkansas, District of Columbia, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Maine, Minnesota, Nebraska, Nevada, New Hampshire, New Jersey, North Carolina, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Washington, Wisconsin. This notice also provides a description of the SBDC program by setting forth a condensed version of the program announcement which has been furnished to each of the SBDCs to be refunded. This publication is being made to provide the State single points of contact, designated pursuant to Executive Order 12372, and other interested State and local entities the opportunity to comment on the proposed refunding in accord with the Executive Order and SBA's regulations found at 13 CFR Part 135.

DATE: Comments will be accepted through December 21, 1987.

ADDRESS: Comments should be addressed to Ms. Janice E. Wolfe, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street, NW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Ms. Janice E. Wolfe.

Notice of Action Subject to Intergovernmental Review

SBA is bound by the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." SBA has promulgated regulations spelling out its obligations under that Executive Order. See 13 CFR Part 135, effective September 30, 1983.

In accord with these regulations, specifically § 135.4, SBA is publishing this notice to provide public awareness of the pending application of twenty-five presently existent Small Business Development Centers (SBDCs) for refunding. Also, published herewith is an annotated program announcement describing the SBDC program in detail.

This notice is being published three months in advance of the expected date of refunding of these SBDCs. Relevant information identifying these SBDCs and providing their mailing address is provided below. In addition to this publication, a copy of this notice is being simultaneously furnished to each affected State single point of contact which has been established under the Executive Order.

The State single points of contact and other interested State and local entities are expected to advise the relevant SBDC of their comments regarding the proposed refunding in writing as soon as possible. The SBDC proposal cannot be inconsistent with any area-wide plan providing assistance to small business, if there is one which has been adopted by an agency recognized by the State government as authorized to do so. Copies of such written comments should also be furnished to Ms. Janice E. Wolfe, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street, NW., Washington, DC 20416. Comments will be accepted by the relevant SBDC and SBA for a period of 90 days from the date of publication of this notice. The relevant SBDC will make every effort to accommodate these comments during the 90-day period. If the comments cannot be accommodated by the relevant SBDC. SBA will, prior to refunding the SBDC, either attain accommodation of any comments or furnish an explanation of why accommodation cannot be attained to the commentor prior to refunding the SBDC.

Description of the SBDC Program

The Small Business Development Center Program is a major management assistance delivery program of the U.S. Small Business Administration. SBDCs are authorized under section 21 of the Small Business Act (15 U.S.C. 648). SBDCs operate pursuant to the provisions of section 21 a Notice of Award (Cooperative Agreement) issued by SBA and a Program Announcement. The Program represents a partnership between SBA and the State-endorsed organization receiving Federal assistance for its operation. SBDCs operate on the basis of a State plan

which provides small business assistance throughout the State. As a condition to any financial award made to an applicant, an additional amount equal to the amount of assistance provided by SBA must be provided to the SBDC from sources other than the Federal Government.

Purpose and Scope

The SBDC Program has been designed to meet the specialized and complex management and technical assistance needs of the small business community. SBDCs focus on providing indepth quality assistance to small businesses in all areas which promote growth, expansion, innovation, increased productivity and management improvement. SBDCs act in an advocacy role to promote local small business interests. SBDCs concentrate on developing the unique resources of the university system, the private sector, and State and local governments to provide services to the small business community which are not available elsewhere. SBDCs coordinate with other SBA programs of management assistance and utilize the expertise of these affiliated resources to expand services and avoid duplication of effort.

Program Objectives

The overall objective of the SBDC Program is to leverage Federal dollars and resources with those of the State academic community and private sector to:

(a) Strengthen the small business community;

(b) Contribute to the economic growth of the communities served;

(c) Make assistance available to more small businesses than is now possible with present Federal resources; and

(d) Create a broader based delivery system to the small business community.

SBDC Program Organization

SBDCs are organized to provide maximum services to the local small business community. The lead SBDC receives financial assistance from the SBA to operate a statewide SBDC Program. In states where more than one organization receives SBA financial assistance to operate an SBDC, each lead SBDC is responsible for Program operations throughout a specific regional area to be served by the SBDC. The lead SBDC is responsible for establishing a network of SBDC subcenters to offer service coverage to the small business community. The SBDC network is managed and directed by a single full-time Director. SBDCs must ensure that at least 80 percent of Federal funds provided are used to provide services to small businesses. To the extent possible, SBDCs provide services by enlisting volunteer and other low cost resources on a statewide basis.

SBDC Services

The specific types of services to be offered are developed in coordination with the SBA district office which has jurisdiction over a given SBDC. SBDCs emphasize the provision of indepth, high-quality assistance to small business owners or prospective small business owners in complex areas that require specialized expertise. These areas may include, but are not limited to: Management, marketing, financing, accounting, strategic planning, regulation and taxation, capital formation, procurement assistance, human resource management, production, operations, economic and business data analysis, engineering, technology transfer, innovation and research, new product development, product analysis, plant layout and design, agri-business, computer application, business law information, and referral (any legal services beyond basic legal information and referral require the endorsement of the State Bar Association,) exporting, office automation, site selection, or any other areas of assistance required to promote small business growth, expansion, and productivity within the State.

The degree to which SBDC resources are directed towards specific areas of assistance is determined by local community needs, SBA priorities and SBDC Program objectives and agreed upon by the SBA district office and the SBDC.

The SBDC must offer quality training to improve the skills and knowledge of existing and prospective small business owners. As a general guideline, SBDCs should emphasize the provision of training in specialized areas other than basic small business management subjects. SBDCs should also emphasize training designed to reach particular audiences such as members of SBA priority and special emphasis groups.

SBDC Program Requirements

The SBDC is responsible to the SBA for ensuring that all programmatic and financial requirements imposed upon them by statute or agreement are met. The SBDC must assure that quality assistance and training in management and technical areas are provided to the State small business community through the State SBDC network. As a condition of this agreement, the SBDC must perform, but not be limited to, the following activities.

(a) The SBDC ensures that services are provided as close as possible to small business population centers. This is accomplished through the establishment of SBDC subcenters.

(b) The SBDC ensures that lists of local and regional private consultants are maintained at the lead SBDC and each SBDC subcenter. The SBDC utilizes and provides compensation to qualified small business vendors such as private management consultants, private consulting engineers, and private testing laboratories.

(c) The SBDC is responsible for the development and expansion of resources within the State, particularly the development of new resources to assist small business that are not presently associated with the SBA district office.

(d) The SBDC ensures that working relationships and open communications exist within the financial and investment communities, and with legal associations, private consultants, as well as small business groups and associations to help address the needs of the small business community.

(e) The SBDC ensures that assistance is provided to SBA special emphasis groups throughout the SBDC network. This assistance shall be provided to veterans, women, exporters, the handicapped, and minorities as well as any other groups designated a priority by SBA. Services provided to special emphasis groups shall be performed as part of the Cooperative Agreement.

Advance Understandings

(a) Lead SBDCs shall operate on a 40-hour week basis, or during normal State business hours of the host institution, with National holidays or State holidays as applicable excluded.

(b) SBDC subcenters shall be operated on a full-time basis. The lead SBDC shall ensure that staffing is adequate to meet the needs of the small business community.

Dated: September 11, 1987.

James Abdnor,

Administrotor.

Addresses of Relevant SBDC Directors

Mr. Paul McGinnis, State Director, Small Business Development Center, University of Arkansas, 5th Floor Library, Room 512, 33rd and University, Little Rock, AR 72204, (501) 371-5381

Ms. Nancy Flake, SBDC Director, Small Business Development Center, Howard University, 6th and Fairmount St., NW., Room 128, Washington, DC 20059, (202) 636-5150

Mr. Gregory Higgins, State Director, Small Business Development Center, University

of West Florida, Building 38, Pensacola, FL 32514, (904) 474-3016

Dr. Frank Hoy, State Director, Small Business Development Center, University of Georgia, Chicopee Complex, Athens, GA 30602, (404) 542-5760

Mr. Ronald R. Hall, State Director, Small Business Development Center, Boise State University, 1910 University Drive, Boise, ID 83725, (208) 385-1640

Mr. Jeff Mitchell, State Director, Small Business Development Center, Dept. of Commerce & Community Affairs, 620 East Adams Street, Springfield, IL 62701, (217) 524-5856

Mr. Steve Thrash, State Director, Small Business Development Center, Indiana Economic Development Council, One North Capitol, Suite 425, Indianapolis, IN 46204, (317) 634-1690

Ms. Susan Osborne-Howes, State Director, Small Business Development Center, Wichita State University, Campus Box 48, 021 Clinton Hall, Wichita, KS 67208, (316) 689-3193

Mr. Warren Purdy, State Director, Small Business Development Center, University of Southern Maine, 246 Deering Avenue, Portland, ME 04102, (207) 780-4423

Mr. Jerry Cartwright, State Director, Small Business Development Center, College of St. Thomas, 1107 Hazeltine Gates Boulevard, Suite 452, Chaska, MN 55318, (612) 448-8810

Mr. Robert Bernier, State Director, Small Business Development Center, University of Nebraska at Omaha, Peter Kiewit Center, Omaha, NE 68182, (402) 554-2521

Mr. Samuel Males, State Director, University of Nevada in Reno, Small Business Development Center, College of Business Administration, Reno, NV 89557-0016, (702) 784-1717

Mr. James Bean, State Director, Small Business Development Center, University of New Hampshire, 370 Commercial Street, Manchester, NH 03103, (603) 625-4522

Ms. Janet Holloway, State Director, Small Business Development Center, Rutgers University, Ackerson Hall—3rd Floor, 180 University Street, Newark, NJ 07102, (201) 648-5950

Mr. Scott R. Daugherty, State Director, Small Business Development Center, University of North Carolina, 820 Clay Street, Raleigh, NC 27605, (919) 733-4643

Mr. Lloyd B. Miller, State Director, Small Business Development Center, SE Oklahoma State University, Station A, Box 4194, Durant, OK 74701, (405) 924-0277

Mr. Sandy Cutler, State Director, Small Business Development Center, Lane Community College, Downtown Center, 1059 Willamette Street, Eugene, OR 97401, (503) 726-2250

Ms. Susan Garber, State Director, Small Business Development Center, University of Pennsylvania, The Wharton School, 3201 Steinberg-Dietrich Hall/CC, Philadelphia, PA 19104, (215) 898-1219

Mr. Douglas Jobling, State Director, Small Business Development Center, Bryant College, Smithfield, RI 02917, (401) 232-6000

Mr. W.F. Littlejohn, State Director, Small Business Development Center, University of South Carolina, College of Business Administration, Columbia, SC 29208, (803) 777-4907

Mr. Donald Greenfield, State Director, Small Business Development Center, University of South Dakota, School of Business, 414 East Clark, Vermillion, SD 57069, (605) 677-5272

Dr. Leonard Rosser, State Director, Small Business Development Center, Memphis State University, Memphis, TN 38152, (901) 454-2500

Mr. Kumen Davis, State Director, Small Business Development Center, University of Utah, 660 South 200 East—Suite 418, Salt Lake City, UT 84111, (801) 581-7905

Mr. Lyle M. Anderson, State Director, Small Business Development Center, Washington State University, College of Business and Economics, Pullman, WA 99164, (509) 335-1576

Dr. Peggy Wireman, State Director, Small Business Development Center, University of Wisconsin, 602 State Street, Second Floor, Madison, WI 53703, (608) 263-7766

[FR Doc. 87-21670 Filed 9-18-87; 8:45 am]
BILLING CODE 8025-01-M

Notice of Action Subject to Intergovernmental Review; Refund; North Dakota SBDC

AGENCY: Small Business Administration.

ACTION: Notice of action subject to intergovernmental review under Executive Order 12372.

SUMMARY: This notice provides for public awareness of SBA's intention to refund the North Dakota Small Business Development Centers (SBDC) on October 1, 1988 subject to the availability of funds. Currently the University of North Dakota is hosted by the University of North Dakota, however, effective October 1 the North Dakota Economic Development Commission plans to host the North Dakota Small Business Development Center. This notice also provides a description of the SBDC program by setting forth a condensed version of the program announcement which has been furnished to each of the SBDCs to be refunded. This publication is being made to provide the State single points of contact designated pursuant to Executive Order 12372 and other interested State and local entities the opportunity to comment on the proposed refunding in accord with the Executive Order and SBA's regulations found at 13 CFR Part 135.

DATE: Comments will be accepted through September 25 1987.

ADDRESS: Comments should be addressed to Ms. Janice E. Wolfe, Deputy Associate Administrator for SBDC Programs U.S. Small Business Administration 1441 L Street NW., Washington DC 20416.

FOR FURTHER INFORMATION CONTACT: Same as above.

Notice of Action Subject to Intergovernmental Review

SBA is bound by the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." SBA has promulgated regulations spelling out its obligations under that Executive Order. See 13 CFR Part 135 effective September 30 1983.

In accord with these regulations, specifically § 135.4, SBA is publishing this notice to provide public awareness of the pending application of one presently existent Small Business Development Center (SBDC) for refunding. Also published herewith is an annotated program announcement describing the SBDC program in detail.

This notice is being published with a short comment period in order to allow refunding on October 1 and provide uninterrupted service to the small business community. Relevant information identifying this SBDC and providing its mailing address is provided below. In addition to this publication a copy of this notice is being simultaneously furnished to the affected State single point of contact which has been established under the Executive Order.

The State single points of contact and other interested State and local entities are expected to advise the relevant SBDC of their comments regarding the proposed refunding in writing as soon as possible. The SBDC proposal cannot be inconsistent with any area-wide plan providing assistance to small business, if there is one, which has been adopted by an agency recognized by the State government as authorized to do so. Copies of such written comments should also be furnished to Ms. Janice E. Wolfe, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration 1441 L Street, NW., Washington DC 20416. Comments will be accepted by the relevant SBDC and SBA through September 25, 1987. The relevant SBDC will make every effort to accommodate these comments during the comment period. If the comments cannot be accommodated by the relevant SBDC, SBA will, prior to refunding the SBDC, either attain accommodation of any comments or furnish an explanation of why accommodation cannot be attained to the commentor prior to refunding the SBDC.

Description of the SBDC Program

The Small Business Development Center Program is a major management

assistance delivery program of the U.S. Small Business Administration. SBDCs are authorized under section 21 of the Small Business Act (15 U.S.C. 648). SBDCs operate pursuant to the provisions of section 21 a Notice of Award (Cooperative Agreement) issued by SBA, and a Program Announcement. The Program represents a partnership between SBA and the State-endorsed organization receiving Federal assistance for its operation. SBDCs operate on the basis of a State plan which provides small business assistance throughout the State. As a condition to any financial award made to an applicant, an additional amount equal to the amount of assistance provided by SBA must be provided to the SBDC from sources other than the Federal Government.

Purpose and Scope

The SBDC Program has been designed to meet the specialized and complex management and technical assistance needs of the small business community. SBDCs focus on providing indepth quality assistance to small businesses in all areas which promote growth, expansion innovation increased productivity and management improvement. SBDCs act in an advocacy role to promote local small business interests. SBDCs concentrate on developing the unique resources of the university system, the private sector, and State and local governments to provide services to the small business community which are not available elsewhere. SBDCs coordinate with other SBA programs of management assistance and utilize the expertise of these affiliated resources to expand services and avoid duplication of effort.

Program Objectives

The overall objective of the SBDC Program is to leverage Federal dollars and resources with those of the State academic community and private sector to:

(a) Strengthen the small business community;

(b) Contribute to the economic growth of the communities served;

(c) Make assistance available to more small businesses than is now possible with present Federal resources; and

(d) Create a broader based delivery system to the small business community.

SBDC Program Organization:

SBDCs are organized to provide maximum services to the local small business community. The lead SBDC receives financial assistance from the SBA to operate a statewide SBDC Program. In states where more than one organization receives SBA financial assistance to operate an SBDC, each lead SBDC is responsible for Program operations throughout a specific regional area to be served by the SBDC. The lead SBDC is responsible for establishing a network of SBDC subcenters to offer service coverage to the small business community. The SBDC network is managed and directed by a single full-time Director. SBDCs must ensure that at least 80 percent of Federal funds provided are used to provide services to small businesses. To the extent possible, SBDCs provide services by enlisting volunteer and other low cost resources on a statewide basis.

SBDC Services

The specific types of services to be offered are developed in coordination with the SBA district office which has jurisdiction over a given SBDC. SBDCs emphasize the provision of indepth, high-quality assistance to small business owners or prospective small business owners in complex areas that require specialized expertise. These areas may include, but are not limited to: Management, marketing, financing, accounting, strategic planning, regulation and taxation, capital formation, procurement assistance, human resource management, production, operations, economic and business data analysis, engineering, technology transfer, innovation and research, new product development, product analysis, plant layout and design, agri-business, computer application, business law information, and referral (any legal services beyond basic legal information and referral require the endorsement of the State Bar Association), exporting, office automation, site selection, or any other areas of assistance required to promote small business growth, expansion, and productivity within the State.

The degree to which SBDC resources are directed towards specific areas of assistance is determined by local community needs, SBA priorities and SBDC Program objectives and agreed upon by the SBA district office and the SBDC.

The SBDC must offer quality training to improve the skills and knowledge of existing and prospective small business owners. As a general guideline, SBDCs should emphasize the provision of training in specialized areas other than basic small business management subjects. SBDCs should also emphasize training designed to reach particular audiences such as members of SBA priority and special emphasis groups.

SBDC Program Requirements

The SBDC is responsible to the SBA for ensuring that all programmatic and financial requirements imposed upon them by statute or agreement are met. The SBDC must assure that quality assistance and training in management and technical areas are provided to the State small business community through the State SBDC network. As a condition of this agreement, the SBDC must perform, but not be limited to the following activities.

(a) The SBDC ensures that services are provided as close as possible to small business population centers. This is accomplished through the establishment of SBDC subcenters.

(b) The SBDC ensures that lists of local and regional private consultants are maintained at the lead SBDC and each SBDC subcenter. The SBDC utilizes and provides compensation to qualified small business vendors such as private management consultants, private consulting engineers, and private testing laboratories.

(c) The SBDC is responsible for the development and expansion of resources within the State, particularly the development of new resources to assist small business that are not presently associated with the SBA district office.

(d) The SBDC ensures that working relationships and open communications exist within the financial and investment communities, and with legal associations, private consultants, as well as small business groups and associations to help address the needs of the small business community.

(e) The SBDC ensures that assistance is provided to SBA special emphasis groups throughout the SBDC network. This assistance shall be provided to veterans, women, exporters, the handicapped, and minorities as well as any other groups designated a priority by SBA. Services provided to special emphasis groups shall be performed as part of the Cooperative Agreement.

Advance Understandings

(a) Lead SBDCs shall operate on a 40-hour week basis, or during normal State business hours of the host institution, with National holidays or State holidays as applicable excluded.

(b) SBDC subcenters shall be operated on a full-time basis. The lead SBDC shall ensure that staffing is adequate to meet the needs of the small business community.

Date: September 11, 1987.

James Abdnor,

Administrator.

Address of Relevant SBDC Director

Mr. Bill Patrie,
North Dakota Economic Development Commission,
Liberty Memorial Buildin-,
Bismarck, ND 58505,
(701) 224-2810

[FR Doc. 87-21671 Filed 9-18-87; 8:45 am]

BILLING CODE 8025-01-M

VETERANS ADMINISTRATION

Meeting; Voluntary Service National Advisory Committee

The Veterans Administration gives notice that the annual meeting of the Veterans Administration Voluntary Service National Advisory Committee, comprised of 56 national voluntary organizations, will be held at the Holiday Inn Surfside, Clearwater Beach, FL, on October 22 through October 25, 1987.

Registration of the conferees and orientation of new committee members will be held beginning at 1:00 p.m. on October 22, 1987. The committee will officially convene with the Opening Session at 9:00 a.m., October 23, 1987, and will conclude at 12 noon, October 25, 1987.

The purposes of the meeting are to instruct committee members and organization officials of the obligations they have accepted for volunteer recruitment, communications and program interpretation, and to seek the advice of the committee in further developing volunteer participation in the care and treatment of veteran patients throughout the agency's nationwide medical program.

For further information contact Mr. Edward F. Rose, Director, Voluntary Service (135), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, Telephone (202) 233-4110.

Dated: September 11, 1987.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 87-21694 Filed 9-18-87; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 182
Monday, September 21, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ENERGY REGULATORY COMMISSION

September 16, 1987.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. 94-409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIME AND DATE: September 23, 1987, 10:00 a.m.

PLACE: 825 North Capitol Street NE., Room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

*Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Public Reference Room.

Consent Power Agenda, 863rd Meeting—September 23, 1987, Regular Meeting (10:00 a.m.)

CAP-1.
Docket No. EL86-1-001 and Project No. 553-011, The City of Seattle, Washington Department of Lighting
CAP-2.
Project No. 3285-004, Trinity River Authority of Texas
CAP-3.
Project No. 8763-003, Power Mining, Inc.
CAP-4.
Project No. 5984-001, Niagara Mohawk Power Corporation and City of Oswego, New York
CAP-5.
Project No. 9391-002, Pan Pacific Hydro, Inc.
CAP-6.
Project No. 3449-009, City of North Little Rock, Arkansas
CAP-7.
Project No. 3083-029, KAMO Electric Cooperative, Inc. and Oklahoma Municipal Power Authority
CAP-8.
Project No. 9656-004, Marble Creek Hydro, Inc.
Project No. 9664-001, St. Joe River Rafters, Inc.
Project No. 9666-002, Marble Creek Associates
CAP-9.
Project No. 8245-002, Bellows-Tower Hydro, Inc.
CAP-10.
Project No. 5923-003, Long Lake Energy Corporation
CAP-11.
Project Nos. 9977-001 and 9812-000, The City of Augusta, Georgia
CAP-12.
Project No. 5137-003, Twin River Resources Company
CAP-13.
Omitted
CAP-14.
Project No. 9683-001, Dunn and McCarthy, Inc.
CAP-15.
Project Nos. 10228-001 and 10037-001, West Virginia Hydro, Inc.
Project No. 10035-000, Hynergix, Inc.
CAP-16.
Project No. 7037-003, Okanogan Public Utility District No. 1
CAP-17.
Project No. 6895-002, Hy-Tech Company
CAP-18.
Docket No. ER87-476-000, Minnesota Power & Light Company
CAP-19.
Docket Nos. ER87-435-000 and ER87-554-001, Wisconsin Power & Light Company
CAP-20.
Docket No. ER87-556-000, Delmarva Power & Light Company
CAP-21.
Docket No. ER87-573-000, Mississippi Power Company
CAP-22.
Docket Nos. EF87-2011-000 and EF87-2021-000, United States Department of Energy—Bonneville Power Administration
CAP-23.
Docket No. EF87-2011-001, United States Department of Energy—Bonneville Power Administration
CAP-24.
Docket Nos. ER85-204-007 and ER85-603-005, South Carolina Generating Company, Inc.
CAP-25.
Omitted
CAP-26.
Docket Nos. EL86-37-002 and EL86-38-002, Allegheny Generating Company
CAP-27.
Docket No. ER84-705-005, Boston Edison Company
CAP-28.
Docket No. ER87-279-001, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)
CAP-29.
Docket No. ER87-396-001, Golden Spread Electric Cooperative, Inc.
CAP-30.
Docket Nos. QF86-900-001, QF86-1025-001, QF86-1026-001, QF86-1027-001, QF86-1028-001, QF86-1029-001, QF86-1030-001, QF86-1031-001, QF86-1032-001, and QF86-1033-001, Turbo Power Systems
CAP-31.
Docket No. ER86-354-002, Niagara Mohawk Power Corporation
CAP-32.
Docket No. ER86-558-011, Gulf States Utilities Company
CAP-33.
Docket Nos. ER87-44-001 and EL87-36-000, Wisconsin Public Service Corporation
CAP-34.
Docket Nos. ER82-427-006, ER84-75-010 and ER87-483-001, Southern California Edison Company
CAP-35.
Docket No. ER87-464-000, The Detroit Edison Company
CAP-36.
Docket No. ER83-628-012, Kansas Gas and Electric Company
CAP-37.
Omitted
CAP-38.
Docket No. ER87-75-001, Niagara Mohawk Power Corporation
CAP-39.
Docket No. ER87-277-001, Public Service Company of New Hampshire
CAP-40.
Docket Nos. ER84-571-003 (Phase II) and ER86-300-002, Utah Power & Light Company
CAP-41.
Docket No. EL87-50-000, Howell Gas Management Company
CAP-42.
Docket No. QF87-274-000, Union Carbide Corporation and Fina Oil and Chemical Company

Consent Miscellaneous Agenda

CAM-1.
Docket No. FA86-51-000, Indianapolis Power & Light Company
CAM-2.
Docket No. FA87-64-000, Consumers Power Company
CAM-3.
Docket No. FA87-60-000, Georgia Power Company
CAM-4.
Docket No. RM87-13-000, Implementation of Section 8 of the Electric Consumers Protection Act of 1986 Governing Hydroelectric Applicants Seeking Benefits Under Public Utility Regulatory Policies Act of 1978 for Projects Located at a New Dam or Diversion
CAM-5.
Docket Nos. RM86-2-002, 003 and 004, Revision of the Billing Procedures for Annual Charges for Administering Part I of the Federal Power Act and to the

Methodology for Assessing Federal Land Use Charges
CAM–6.
Docket No. RM87–4–001, Rate Changes Relating to Federal Corporate Income Tax Rate for Public Utilities
CAM–7.
Docket Nos. RM87–34–001 through RM87–34–045, Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol
CAM–8.
Docket No. GP87–39–000, North Dakota Industrial Commission, § 102 NGPA Determination, Hunt Energy Corporation, Pederson #1 Sec. 20, T158N, R–95W, Williams County, N.D., FERC JD82–4052
CAM–9.
Docket No. GP87–43–000, Floyd A. Gearhart—Stanley K. Odell
CAM–10.
Docket No. GP83–41–000, Aminoil USA, Inc., State Lease 2028 No. 17–D Well
CAM–11.
Docket No. GP87–32–000, Oklahoma Corporation Commission, Section 102(c) NGPA Determination, Fox No. 1 Well, FERC J.D. No. 8630785
CAM–12.
Docket No. GP87–48–000, Minerals Management Service, Louisiana, § 102(d) NGPA Determination Conoco, Inc., OCS–0129 No. D–11 Well, MMS Docket No. G5–4802
CAM–13.
Docket No. GP87–61–000, Chapman Energy, Inc. (formerly Continental Resources Corporation), Herring No. 22–1 Well
CAM–14.
Docket No. GP87–51–000, Northern Natural Gas Company and Phillips Petroleum Company
CAM–15.
Docket Nos. RM83–72–011 and 012, First Sales of Pipeline Production Under Section 2(21) of the Natural Gas Policy Act of 1978
Docket Nos. RM82–16–011 and 012, First Sales by Affiliates

Consent Gas Agenda

CAG–1.
Docket No. RP87–78–001, Penn-York Energy Corporation
CAG–2.
Docket No. RP86–110–001, Texas Eastern Transmission Corporation
Docket No. RP86–93–004, United Gas Pipe Line Company
Docket No. RP85–175–000, Transwestern Pipeline Company
Docket No. CP86–585–000, Panhandle Eastern Pipe Line Company
Docket No. CP86–586–000, Trunkline Gas Company
Docket Nos. CP86–521–005 and –006, Texas Gas Transmission Corporation
Docket No. CP86–578–000, Northwest Pipeline Corporation
Docket Nos. CP86–589–000 and RP86–104–000, Colorado Interstate Gas Company
Docket Nos. RP85–169–000 and CP86–311–000, Consolidated Gas Transmission Corporation
Docket No. RP86–155–000, Northwest Central Pipeline Corporation (Williams Natural Gas Company)
Docket No. RP86–97–003, Natural Gas Pipeline Company of America
Docket No. RP85–206–029, Northern Natural Gas Company, Division of Enron Corporation
Docket No. RP86–134–000, MIGC, Inc.
Docket No. RP86–105–000, ANR Pipeline Company
CAG–3.
Docket No. RP87–94–000, Transcontinental Gas Pipe Line Corporation
CAG–4.
Docket Nos. RP87–102–000 and TA88–1–40–000, Raton Gas Transmission Company
CAG–5.
Omitted
CAG–6.
Docket No. RP87–115–000, Williston Basin Interstate Pipeline Company
CAG–7.
Docket Nos. RP86–168–012 and 013, Columbia Gas Transmission Corporation
Docket No. RP86–167–010, Columbia Gulf Transmission Corporation
CAG–8.
Docket Nos. TA88–1–37–000, TA87–1–37–009, TA87–1–37–000 and RP82–56–000, Northwest Pipeline Corporation
CAG–9.
Docket No. TA87–3–16–002, National Fuel Gas Supply Corporation
CAG–10.
Docket No. TA88–1–35–000, West Texas Gas, Inc.
CAG–11.
Docket Nos. TA87–4–49–002, TA84–2–49–000, TA85–1–49–000, TA85–2–49–000, TA85–3–49–000, TA86–1–49–000, TA86–2–49–000, TA87–1–49–000, TA87–3–49–000, CP82–487–000 and CP82–487–002, Williston Basin Interstate Pipeline Company
CAG–12.
Omitted
CAG–13.
Docket Nos. RP86–105–004, 011, RP86–169–002 and 006, ANR Pipeline Company
CAG–14.
Docket Nos. CP86–589–003, 004, RP86–104–004 and 005, Colorado Interstate Gas Company
CAG–15.
Docket Nos. RP80–55–011, RP80–118–013, RP81–73–005, and RP82–32–006, Sea Robin Pipeline Company
CAG–16.
Docket No. RP86–157–000, El Paso Natural Gas Company
CAG–17.
Docket No. RP86–151–000, Seagull Interstate Corporation
CAG–18.
Docket No. RP86–116–000, 009, 010, 011 and 012, Panhandle Eastern Pipe Line Company
CAG–19.
Docket Nos. RP81–49–024 and GT84–14–000, Natural Gas Pipeline Company of America
CAG–20.
Docket Nos. ST87–2410–000 and ST87–2411–000, Dow Pipeline Company
CAG–21.
Docket No. ST86–1431–000, Weirton Service Pipeline Company
CAG–22.
Docket Nos. ST87–2415–000, ST87–2416–000, ST87–2417–000, ST87–2418–000, ST87–2586–000 and ST87–2587–000, Lear Gas Transmission Company
CAG–23.
Docket No. RI87–553–000, Cities Service Oil and Gas Company
CAG–24.
Docket Nos. RI74–188–105 and RI75–21–100, Independent Oil & Gas Association of West Virginia
Docket No. GP80–11–006, Columbia Gas Transmission Corporation
CAG–25.
Docket No. G–2758–001, Kerr-McGee Corporation
Docket No. CI86–695–001, Amoco Production Company
Docket No. CI86–726–001, Amoco Production Company
Docket No. CI87–571–001, Texaco Producing Inc.
Docket No. CI64–196–001, Texaco Inc.
Docket No. CI87–575–001, Texaco Producing Inc.
Docket No. G–12568–001, Texaco Inc.
Docket No. CI87–576–001, Texaco Producing Inc.
Docket No. CI87–591–001, Texaco Inc.
Docket No. CI87–624–001, Cities Service Oil and Gas Corporation
Docket No. CI87–647–001, Exxon Corporation
CAG–26.
Docket No. CI85–632–004, Tenngasco Corporation and Tenngasco Exchange Corporation
CAG–27.
Docket No. CI85–633–004, Tenneco Oil Company, Houston Oil and Minerals Corporation, Tenneco Exploration, Ltd., Tenneco Exploration II, Ltd., TINCO, Ltd., and Tenneco West, Inc.
Docket No. CI87–666–000 Texaco Inc., Texaco Producing Inc. and Getty Oil Company
Docket No. CP85–710–006, Northern Natural Gas Company
CAG–28.
Docket No. CI87–713–000, Hondo Oil & Gas Company
CAG–29.
Docket No. CI87–547–000, Enron Gas Marketing, Inc.
Docket No. CI87–729–000, Phillips Gas Marketing Company
Docket No. CI87–734–000, Northwest Marketing Company
Docket No. CI87–736–000, Chevron Natural Gas Services, Inc.
Docket No. CI87–737–000, SEMCO Energy Services, Inc.
Docket No. CI87–738–000, Williams Gas Marketing Company
Docket No. CI87–747–000, Maxus Exploration Company and Diamond Shamrock Offshore Partners Limited Partnership
Docket No. CI87–751–000, Pennzoil Gas Marketing Company
Docket No. CI87–759–000, Eastex Hydrocarbons, Inc. and Mesa-Eastex Gas Marketers
Docket No. CI87–764–000, BHP Gas Marketing Company

Docket No. CI87-785-000, Phillips 66 Natural Gas Company
Docket No. CI87-786-000, Val Gas, L.P.
CAG-30.
Docket No. CP85-390-004, Transcontinental Gas Pipe Line Corporation and Marengo Corporation
CAG-31.
Docket No. CP87-20-001, Williston Basin Interstate Pipeline Company
CAG-32.
Docket No. CP87-57-002, Florida Gas Transmission Company
CAG-33.
Docket No. CP81-296-011, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
Docket No. CP81-108-007, Boundary Gas, Inc.
CAG-34.
Docket No. CP87-196-001, Transcontinental Gas Pipe Line Corporation
Docket No. CP87-203-001, Consolidated Gas Transmission Corporation and North Penn Gas Company
CAG-35.
Omitted
CAG-36.
Docket No. CP86-693-001 through CP86-693-007, Washington Gas Light Company
CAG-37.
Docket No. CP86-521-002, CP86-521-003, CP86-521-004, CP87-306-000 and RP86-85-003, Texas Gas Transmission Corporation
CAG-38.
Docket No. CP84-132-003, CP84-133-002, CP84-134-002 and CP84-196-003, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
Docket Nos. CP84-132-002 and CP84-196-002, Columbia Gulf Transmission Corporation
CAG-39.
Docket No. RP86-15-017, Columbia Gas Transmission Corporation
Docket No. RP86-14-017, Columbia Gulf Transmission Company
CAG-40.
Docket No. CP87-396-000, Northwest Pipeline Corporation
CAG-41.
Docket No. CP87-717-000, Western Transmission Corporation
CAG-42.
Docket No. CP87-154-000, Southern Natural Gas Company
CAG-43.
Docket No. CP86-633-000 and 001, Northern Natural Gas Company, Division of Enron Corporation
CAG-44.
Docket No. CP87-308-000, United Gas Pipe Line Company
CAG-45.
Docket No. CP87-243-000, Mountain Fuel Resources, Inc.
CAG-46.
Docket No. CP61-132-000, Northern Natural Gas Company, a Division of Enron Corporation and Enron Gas Processing Company
CAG-47.
Docket Nos. RP86-116-007, RP86-116-008, CP86-585-003, and CP86-585-004, Panhandle Eastern Pipe Line Company
CAG-48.
Docket No. CP87-39-001, Granite State Gas Transmission, Inc.
CAG-49.
Docket No. CP86-599-001, Transcontinental Gas Pipe Line Corporation
CAG-50.
Docket No. CI87-1-002, CI87-2-002, CI87-3-002, CI87-4-002, CI87-5-002, CI87-6-002, CI87-7-002, CI87-8-002, CI87-9-002, CI87-10-002, CI87-11-002, CI87-12-002, CI87-13-002, CI87-14-002, CI87-15-002, CI87-16-002, CI87-17-002, CI87-18-002, CI87-19-002, CI87-20-002, CI87-21-002, CI87-22-002, CI87-23-002, CI87-24-002, CI87-25-002, CI87-26-002 and CI87-27-002, American Royalty Producing Company (Successor-in-interest to Petro-Lewis Corporation (Operator)), *et al.*
CAG-51.
Docket No. CP87-76-000, Trunkline Gas Company
Docket No. CP87-124-000, Transcontinental Gas Pipe Line Corporation
Docket No. CP87-149-000, Natural Gas Pipeline Company of America
CAG-52.
Docket No. RP74-50-025, Florida Gas Transmission Company
Docket No. RP74-50-024, Florida Gas Transmission Company (Basic Incorporated)
Docket No. RP74-50-026, Florida Gas Transmission Company (Gardinier, Inc. and Coopers & Lybrand, Trustee)

I. Licensed Project Matters

P-1.
Reserved

II. Electric Rate Matters

ER-1.
Docket No. EL87-21-001, Yankee Atomic Electric Company. Opinion and order determining just and reasonable rates.
ER-2.
Docket No. EL87-22-001, Vermont Yankee Nuclear Power Corporation. Opinion and order determining just and reasonable rates.
ER-3.
Docket No. EL87-23-001, Connecticut Yankee Atomic Power Company. Opinion and order determining just and reasonable rates.
ER-4.
Docket No. ER76-205-003, Southern California Edison Company. Opinion and order determining just and reasonable rates.

Miscellaneous Agenda

M-1.
Reserved
M-2.
Reserved
M-3.
Omitted

I. Pipeline Rate Matters

RP-1.
Docket No. RP87-71-000, Gas Research Institute. Order regarding GRI's proposed funding unit.
RP-2.
Docket No. RP86-126-000, Transwestern Pipeline Company. Order regarding Transwestern's proposal to recover take-or-pay costs.
RP-3.
Docket No. RP85-177-019 through 042; RP85-176-009 through 016, 018 through 025; RP86-110-002 through 004; RP83-35-042 through 049, 051 through 058; CP86-378-001 through 003, 005 through 007; CP86-379-001 through 002, and 004 through 006; CP86-380-001 through 002, 004 through 006; Texas Eastern Transmission Corporation. Rehearing of order approving Order No. 436 settlement.
RP-4.
Omitted
RP-5.
Docket No. RP85-169-008, through 025, RP82-115-006 through 018, RP81-80-011 through 023, CP86-311-001 through 003, and CP86-312-011, Consolidated Gas Transmission Corporation. Rehearing of order approving Order No. 436 settlement.
RP-6.
Docket No. RP86-32-003, RP86-32-004, RP86-32-005, RP86-68-005, RP86-68-006 and RP86-68-007, Williams Natural Gas Company. Rehearing of order approving Order No. 436 settlement.
RP-7.
Omitted

II. Producer Matters

CI-1.
Reserved

III. Pipeline Certificate Matters

CP-1.
Docket No. RP71-29-029 (Phase II), United Gas Pipe Line Company. Order on court remand regarding compensation system for a curtailment plan.
CP-2.
Docket No. CP87-451-001, 002, and 003, Northeast U.S. Pipeline Projects. Order on rehearing of notice inviting applications to provide new gas service to the Northeast U.S.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21831 Filed 9-17-87; 4:00 pm]

BILLING CODE 6717-01-M

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: At 8:00 a.m., Friday, October 2, 1987.

PLACE: In the Board Room, 6th Floor, 1700 G Street, NW., Washington, DC

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202-377-6679).

MATTERS TO BE CONSIDERED: Amendments to regulations concerning the qualified thrift lender test, notice and disapproval procedures for

applications, classification of assets, and appraisal standards.

John F. Ghizzoni,

Assistant Secretary.

No. 10, September 17, 1987.

[FR Doc. 87-21833 Filed 9-17-87; 4:30 pm]

BILLING CODE 6720-01-M

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1393]

TIME AND DATE: 10 a.m. (e.d.t.), Wednesday, September 23, 1987.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on September 9, 1987.

Discussion Item

1. Report on Status of Reclamation of Abandoned Noncoal Mineral Lands in the TVA Region.

Action Items

A—Budget and Financing

A1. Adoption of Supplemental Resolution Authorizing 1987 Series E Power Bonds.

A2. Resolution Authorizing the Chairman and Other Executive Officers To Take Further Action Relating to Issuance and Sale of 1987 Series E Power Bonds.

A3. Short-Term Borrowing from the U.S. Treasury.

B—Purchase Awards

B1. Invitation BA-41243A—Indefinite Quantity Term Agreement for Galvanized Structural Steel for Transmission Line Towers, Laced and Low Profile Substation Steel, and Anchor Bolts for any TVA Project or Warehouse Excluding Nuclear Plants.

*B2. Negotiation WC-05573A—Fire Fighting Trucks for the Office of Nuclear Power.

C—Power Items

C1. Renewal Power Contract with ARAB Electric Cooperative.

C2. Renewal Power Contract with City of Lawrenceburg, Tennessee.

C3. Supplement to Contract No. TV-58784A Between TVA and the Department of Energy (DOE) for DOE to Provide Technical Assistance and Perform Tasks as Requested by TVA at the Oak Ridge National Laboratory.

D-Personnel Items

D1. Recommendations on Rates of Pay and Certain Monetary Fringe Benefits for Salary Policy Employees in Represented Positions Resulting from the 35th (1987) Annual Salary Negotiations.

D2. Recommendations on Rates of Pay and Certain Monetary Fringe Benefits for Employees in Excluded Pay Schedules.

D3. Proposal for Sabbatical Leave for James M. Kelly, Employee in the Division of Air and Water Resources.

D4. Personal Services Contract with Manpower Temporary Services of Chattanooga, Tennessee, for Temporary Clerical Services in the TVA Service Area, Requested by the Office of Corporate Services.

D5. Personal Services Contract with Upgrade Temporary Service of Knoxville, Tennessee, for Temporary Clerical Services in the TVA Service Area, Requested by the Office of Corporate Services.

D6. Supplement to Personal Services Contract No. TV-60066A with the University of Tennessee, Knoxvill, Tennessee, for Report Preparation in Connection with Archaeological Investigations, Requested by the Office of Natural Resources and Economic Development

D7. Supplement to Personal Services Contract No. TV-63868A with Praxis Engineers, Inc., Milpitas, California, for Development of a Coal Preparation Process Control System, Requested by the Office of Power.

D8. Supplement to Personal Services Contract No. TV-69324A with Stone & Webster Engineering Corporation, Boston, Massachusetts, for Engineering, Construction and Operation Support Services, Requested by the Office of Nuclear Power.

D9. Supplement to Personal Services Contract No. TV-65374A with United Engineers and Constructors, Inc., Philadelphia, Pennsylvania, Providing for the Performance of General Engineering, Design, and Architectural Services, Requested by the Office of Nuclear Power.

D10. Supplement to Personal Services Contract No. TV-69838A with Daniel International Corporation of Greeneville, South Carolina, for Services in Connection with the Employee Concerns Special Project at Watts Bar Nuclear Plant, Requested by the Office of Nuclear Power.

D11. Personal Services Contract with Associated Project Analysts of Los Gatos, California, for Assistance Relating to Restart Schedule and Licensing Activities at TVA Nuclear Plants, Requested by Office of Nuclear Power.

E—Real Property Transactions

E1. Grant of Permanent Easement to the City of Muscle Shoals, Alabama, for a Stormwater Discharge Pipeline, Affecting 0.9-acre of Muscle Shoals Reservation Land in Colbert County, Alabama—Tract No. XT2NPT-16E.

F—Unclassified

F1. Contract with Alabama-Tennessee Natural Gas Company for Supply of Interruptible Gas to the Office of Agricultural and Chemical Development Facilities at Muscle Shoals, Alabama (TV-72822A).

F2. Research Grant Agreement with the Binational Agricultural Research and Development Fund Covering Arrangements for Cooperative Research Relating to Development of Technology to Improve the Growth and Production of Tilapia, a Group of Food Fishes.

*F3. Agreement Between TVA and the United States Headquarters, Air Force Engineering and Services Center, Covering Arrangements for a Cooperative Research Agreement with Auburn University Relating to Reduction of Waste.

F4. Agreement Between TVA and the U.S. Department of the Navy, Naval Air Systems Command, Covering Arrangements for Development of a Welding Database System Utilizing the American Welding Institute Staff (TV73321A).

F5. Supplement to Letter Agreement No. TV-69657A with the Missouri River Division Laboratory, Corps of Engineers, U.S. Department of the Army, for Performance of Environmental Laboratory Analyses to Determine Priority Pollutants at Certain Sampling Sites Located in the Missouri River Division of the Corps of Engineers.

F6. Supplement to Contract No. TV-67693A Between TVA and Agency for International Development (AID) Providing for TVA Technical Assistance in Support of the AID Infrastructure Revitalization Project in Grenada West Indies.

F7. Contract No. TV-73319A Between TVA and Alabama Department of Economic and Community Affairs, Office of Employment and Training for a Multicraft Upgrade Training Program for former Bellefonte Nuclear Plant Employees—Scottsboro Craft Training Program.

F8. Contract No. TV-73320A Between TVA and Alabama Department of Economic and Community Affairs, Office of Employment and Training—Muscle Shoals Craft Training Project.

F9. Contract No. TV-72806A Between TVA and Industrial Development Board of Scott County, Tennessee, for Cooperation in the Development and Implementation of a Project to Construct an Industrial Building, as a Part of the TVA Special Opportunity Counties Program.

F10. Supplement to Cooperative Agreement TV-66539A Among TVA, Agricultural Stabilization and Conservation Service, and Soil Conservation Service Covering Arrangements for a Project to Demonstrate the Use of Animal Waste Management Systems to Improve Water Quality in the Bear Creek Floatway in Franklin and Marion Counties, Alabama.

F11. Supplement to Contract No. TV-34108A with Tennessee Department of Transportation and Supplement to Contract No. TV-34108A with Tellico Reservoir Development Agency Providing for Financial Assistance in the Completion of Construction of 5.9 Miles of Tennessee State Highway 72 in the Tellico Project Area.

F12. Payments to States and Counties in Lieu of Taxes for Fiscal Year Ending September 30, 1987, as Provided Under Section 13 of the TVA Act, as Amended.

F13. TVA Code on Cost Sharing and Cost Recovery In TVA Programs.

F14. TVA Contribution to Retirement System for Fiscal Year 1988.

F15. Amendments to the Rules and Regulations of the TVA Retirement System and Terms and Conditions of the Voluntary Retirement Savings and Investment Plan.

F16. Proposed Trust Agreement with Fidelity Management Trust Company.

*Items approved by individual Board members. This would give formal ratification to the Board's action.

CONTACT PERSON FOR MORE INFORMATION: Alan Carmichael, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: September 16, 1987.

W.F. Willis,

General Manager.

[FR Doc. 87–21753 Filed 9–17–87; 9:15 am]

BILLING CODE 8120–01–M

Corrections

Federal Register
Vol. 52, No. 182
Monday, September 21, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lasalocid With Melengestrol Acetate

Correction

In rule document 87-20503 beginning on page 33803 in the issue of Tuesday, September 8, 1987, make the following correction:

On page 33804, in the first column, in the second complete paragraph, in the third line, "2 CFR" should read "21 CFR".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87N-0303]

Drug Export; Abbott HIV Antigen EIA

Correction

In notice document 87-20890 beginning on page 34422 in the issue of Friday, September 11, 1987, make the following corrections:

1. On page 34422, in the second column, in the second line from the bottom, "Act of 1987" should have read "Act of 1986."

2. On the same page, in the third column, in the last line, "to the Commission" should have read "to the Commissioner."

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-010-07-4212-13:GP7-265]

Realty Action; Exchange of Public and Private Lands in Lake and Harney Counties, OR

Correction

In notice document 87-19730 beginning on page 32353 in the issue of Thursday, August 27, 1987, make the following correction:

On page 32353, in the third column, in the sixth line of the document, "*T. 30 S.*" should have read "*T. 29 S.*"

BILLING CODE 1505-01-D

Federal Register

Monday
September 21, 1987

Part II

Department of Agriculture

Farmers Home Administration

7 CFR Part 1957

Sale of Section 502 Rural Housing Loans; Final Rule; Guidelines

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1957

Sale of Section 502 Rural Housing Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule; guidelines.

SUMMARY: The Farmers Home Administration (FmHA) adds a regulation to issue guidelines for the protection of the rights of borrowers whose loans are sold to the private sector under the provisions of the Omnibus Budget Reconciliation Act of 1986, Pub. L. 99–509 (OBRA). This action is necessary as these guidelines have been incorporated into the sale documents. The intended effect of this action is to notify the public of how FmHA is protecting these borrowers' rights.

EFFECTIVE DATE: September 21, 1987.

FOR FURTHER INFORMATION CONTACT: Phil Girard, Senior Loan Specialist, Servicing Branch, Single Family Housing Servicing and Property Management Division, Farmers Home Administration, USDA, Room 5309, South Agriculture Building, Washington, DC 20250, telephone (202) 382–1452.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures in Secretary's Memorandum 1512–1 which implements Executive Order 12291 and has been determined to be exempt because of time constraints in complying with the Omnibus Budget Reconciliation Act of 1986.

FmHA is providing in the sale documents that servicing of loans sold under OBRA will be accomplished substantially in conformity with regulations governing section 502 rural housing loans held and serviced by FmHA, except as provided for in FmHA regulations. Once normal servicing has ended because action to collect a debt is required, or property is acquired on behalf of the purchaser which is to be managed and/or sold, the purchaser will be responsible for further actions.

During a transition period, FmHA will be subservicing, by contract with a Master Servicer, the loans which are sold. In the event that a loan sold by FmHA is found after the sale not to be legally transferable, FmHA will, during a two year period, substitute a different loan. Loans subserviced by FmHA will be serviced as any 502 rural housing loan, except that certain provisions of FmHA regulations pertaining to protecting the interests of the mortgage holder will not apply. These provisions include those dealing with subordination and management and sale of acquired security property. In addition, due to the possible adverse tax consequences to the purchaser of the loans, the regulations governing assumptions of mortgages will not apply, though FmHA will give a priority to purchasers eligible for a section 502 loan.

Since these loans are being sold to the private sector, they will no longer be subject to the graduation requirement.

Prior to the transfer of subservicing to the private sector, FmHA will publish further guidelines, after notice and comment, establishing the procedural parameters for such private sector subservicers.

It is the policy of this Department to publish for comment, rules relating to public property, loans, grants, benefits, or contracts, notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking because it is impractical to do so because Congress mandated these guidelines be issued for the loan sale which, by law, must be completed by September 30, 1987. Until the structure of the entity purchasing the loans was firmly established, it was impossible to determine which FmHA regulations could not be translated into the private sector. The terms of the sale are still evolving, the nature of and limits on the purchasing entity have only recently been finalized.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, *Environmental Program.* It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of human environment and in accordance with the National Environment Policy Act of 1969, Pub. L. 91–190, an Environment Impact Statement is not required.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940–J, *Intergovernmental Review of Farmers Home Administration Programs and Activities* (December 23, 1983). The Catalog of Federal Domestic Assistance title and number is section 502 Rural Housing Loans, 10.410.

List of Subjects in 7 CFR Part 1957

Account servicing, Interest credit, Loan programs—housing and community development, Mortgages, Rural housing.

Accordingly, 7 CFR Chapter XVIII is amended by adding Part 1957 consisting of Subpart A to read as follows:

PART 1957—ASSET SALES

Subpart A—Rural Housing Asset Sales

Sec.

1957.1 General.
1957.2 Transfer with assumption.
1957.3 Security servicing.
1957.4 Graduation.
1957.5 Assignment of interest.
1957.6–1957.50 [Reserved]

Authority: Pub. L. 99–509, sec. 2001(b)(1).

Subpart A—Rural Housing Asset Sales

§ 1957.1 General

Pursuant to the Omnibus Budget Reconciliation Act of 1986 (OBRA), the Farmers Home Administration is selling certain of the loans it has made under section 502 of the Housing Act of 1949 to the Rural Housing Trust, 1987–1. The sale is without recourse to FmHA except for certain provisions in an insurance contract providing for FmHA's payment of interest credit amounts and to compensate for future cash flow changes due to revised borrowers rights. After these loans are sold, FmHA would normally not be responsible for seeing that the terms of the mortgages were enforced and that borrowers were given the rights to which they may be entitled. OBRA provides that the Secretary of Agriculture establish guidelines for the sale of loans which guidelines shall include the kind of protections to be provided to borrowers. These guidelines to protect borrowers' rights have been incorporated into the sale documents. The Trust has agreed to service the loans in accordance with FmHA regulations as provided for in these guidelines.

§ 1957.2 Transfer with assumption.

Regulations governing transfers and assumptions will not apply to these loans. Applicants to purchase property securing a sold loan who are eligible for a section 502 loan will be given the same priority under § 1944.26(b) as a transferee of a section 502 loan if the property is then suitable for the program.

§ 1957.3 Security servicing.

Various regulations relating to security servicing (i.e., not borrower rights servicing) which are intended to protect the security interests of the mortgage holder and/or to maximize its return on acquired security property do not apply to properties securing loans

which have been sold to the public under OBRA. These include regulations governing subordination of liens, management of acquired property and the sale of acquired property.

§ 1957.4 Graduation.

Borrowers will not be required to graduate to other credit.

§ 1957.5 Assignment of interest.

FmHA will have assigned all of its interest under the mortgages to the Trust. All rights and obligations of the Government will have been assigned to the Trust, except that the right to recapture of previously granted interest credit has been retained by the Government, with collection of same to be accomplished by the Trustee through the Master Servicer.

§§ 1957.6–1957.50 [Reserved]

Date: September 18, 1987.

Richard E. Lyng,

Secretary of Agriculture.

[FR Doc. 87–21861 Filed 9–18–87; 10.32 am]

BILLING CODE: 3410-07-M

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CFR CHECKLIST

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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1, 2 (2 Reserved)	$9.00	Jan. 1, 1987
3 (1986 Compilation and Parts 100 and 101)	11.00	[1] Jan. 1, 1987
4	14.00	Jan. 1, 1987
5 Parts:		
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10 Parts:		
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200-399	13.00	Jan. 1, 1987
400-499	14.00	Jan. 1, 1987
500-End	24.00	Jan. 1, 1987
11	7.00	Jan. 1, 1986
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300-499	13.00	Jan. 1, 1987
500-End	27.00	Jan. 1, 1987
13	19.00	Jan. 1, 1987
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15 Parts:		
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400-End	14.00	Jan. 1, 1987

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1-399	12.00	Apr. 1, 1987
400-499	23.00	Apr. 1, 1987
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170-199	16.00	Apr. 1, 1987
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1987. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1985 to June 30, 1986. The CFR volume issued as of July 1, 1985 should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[6] No amendments to this volume were promulgated during the period Oct. 1, 1985 to Sept. 30, 1986. The CFR volume issued as of Oct. 1, 1985 should be retained.